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## SCHEDULES

### SCHEDULE 3

Section 80

#### SEXUAL OFFENCES FOR PURPOSES OF PART 2

##### *England and Wales*

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

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

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

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VALID FROM 19/02/2007

- [<sup>F1</sup>29A An offence under section 48 of this Act (causing or inciting child prostitution or pornography) if the offender –
- (a) was 18 or over, or
  - (b) is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months.

**Textual Amendments**

- F1** Sch. 3 paras. 29A-29C inserted (19.2.2007) by [The Sexual Offences Act 2003 \(Amendment of Schedules 3 and 5\) Order 2007 \(S.I. 2007/296\)](#), arts. 1(1), 2(2)

VALID FROM 19/02/2007

- 29B An offence under section 49 of this Act (controlling a child prostitute or a child involved in pornography) if the offender –
- (a) was 18 or over, or
  - (b) is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months.

**Textual Amendments**

- F1** Sch. 3 paras. 29A-29C inserted (19.2.2007) by [The Sexual Offences Act 2003 \(Amendment of Schedules 3 and 5\) Order 2007 \(S.I. 2007/296\)](#), arts. 1(1), 2(2)

VALID FROM 19/02/2007

- 29C An offence under section 50 of this Act (arranging or facilitating child prostitution or pornography) if the offender –
- (a) was 18 or over, or
  - (b) is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months.]

**Textual Amendments**

- F1** Sch. 3 paras. 29A-29C inserted (19.2.2007) by [The Sexual Offences Act 2003 \(Amendment of Schedules 3 and 5\) Order 2007 \(S.I. 2007/296\)](#), arts. 1(1), 2(2)

- 30 An offence under section 61 of this Act (administering a substance with intent).
- 31 An offence under section 62 or 63 of this Act (committing an offence or trespassing, with intent to commit a sexual offence) if—
- (a) where the offender was under 18, he is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months;
  - (b) in any other case—

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

VALID FROM 26/01/2009

1<sup>F2</sup>35A An offence under section 63 of the Criminal Justice and Immigration Act 2008 (possession of extreme pornographic images) if the offender—

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- (a) was 18 or over, and
- (b) is sentenced in respect of the offence to imprisonment for a term of at least 2 years.]

#### Textual Amendments

**F2** Sch. 3 para. 35A inserted (E.W.N.I.) (26.1.2009) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 148(1), 153(7), **Sch. 26 para. 58(2)**; S.I. 2008/2993, **art. 2(2)(j)**

VALID FROM 06/04/2010

- [<sup>F3</sup>35B An offence under section 62(1) of the Coroners and Justice Act 2009 (possession of prohibited images of children) if the offender—
- (a) was 18 or over, and
  - (b) is sentenced in respect of the offence to imprisonment for a term of at least 2 years.]

#### Textual Amendments

**F3** Sch. 3 para. 35B inserted (6.4.2010) by Coroners and Justice Act 2009 (c. 25), ss. 177(1), 182(5), **Sch. 21 para. 62(2)**; S.I. 2010/816, **art. 2**, Sch. para. 20(a) (with art. 7)

### *Scotland*

- 36 Rape.
- 37 Clandestine injury to women.
- 38 Abduction of woman or girl with intent to rape.

VALID FROM 01/12/2010

- [<sup>F4</sup>38A Abduction with intent to commit rape under section 1 (rape) of the Sexual Offences (Scotland) Act 2009 (asp 9).

#### Textual Amendments

**F4** Sch. 3 paras. 38A, 38B inserted (S.) (1.12.2010) by The Sexual Offences (Scotland) Act 2009 (Supplemental and Consequential Provisions) Order 2010 (S.S.I. 2010/421), art. 2, **Sch. para. 3(a)**

VALID FROM 01/12/2010

- 38B Abduction with intent to commit rape under section 18 (rape of a young child) of that Act.]

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#### Textual Amendments

**F4** Sch. 3 paras. 38A, 38B inserted (S.) (1.12.2010) by The Sexual Offences (Scotland) Act 2009 (Supplemental and Consequential Provisions) Order 2010 (S.S.I. 2010/421), art. 2, **Sch. para. 3(a)**

39 Assault with intent to rape or ravish.

VALID FROM 01/12/2010

[<sup>F5</sup>39A Assault with intent to commit rape under section 1 (rape) of the Sexual Offences (Scotland) Act 2009.

#### Textual Amendments

**F5** Sch. 3 paras. 39A, 39B inserted (S.) (1.12.2010) by The Sexual Offences (Scotland) Act 2009 (Supplemental and Consequential Provisions) Order 2010 (S.S.I. 2010/421), art. 2, **Sch. para. 3(b)**

39B Assault with intent to commit rape under section 18 (rape of a young child) of that Act.]

VALID FROM 01/12/2010

#### Textual Amendments

**F5** Sch. 3 paras. 39A, 39B inserted (S.) (1.12.2010) by The Sexual Offences (Scotland) Act 2009 (Supplemental and Consequential Provisions) Order 2010 (S.S.I. 2010/421), art. 2, **Sch. para. 3(b)**

40 Indecent assault.

41 Lewd, indecent or libidinous behaviour or practices.

VALID FROM 01/12/2010

[<sup>F6</sup>41A Public indecency if—  
(a) a person (other than the offender) involved in the offence was under 18, and  
(b) the court determines that there was a significant sexual aspect to the offender's behaviour in committing the offence.]

#### Textual Amendments

**F6** Sch. 3 para. 41A inserted (S.) (1.12.2010) by Sexual Offences (Scotland) Act 2009 (asp 9), ss. 61(1), 62(2), **Sch. 5 para. 5(5)(b)**; S.S.I. 2010/357, **art. 2(a)**

42 Shameless indecency, if a person (other than the offender) involved in the offence was under 18.

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43 Sodomy, unless every person involved in the offence was 16 or over and was a willing participant.

44 An offence under section 170 of the Customs and Excise Management Act 1979 (c. 2) (penalty for fraudulent evasion of duty etc.) in relation to goods prohibited to be imported under section 42 of the Customs Consolidation Act 1876 (c. 36) (indecent or obscene articles), if the prohibited goods included indecent photographs of persons under 16.

VALID FROM 28/03/2011

[<sup>F7</sup>44A An offence under section 51A of the Civic Government (Scotland) Act 1982 (c.45) (possession of extreme pornography) if—

- (a) the offender—
  - (i) was 18 or over, and
  - (ii) is or has been sentenced in respect of the offence to imprisonment for a term of more than 12 months, and
- (b) in imposing sentence, the court determines that it is appropriate that Part 2 of this Act should apply in relation to the offender.]

#### Textual Amendments

**F7** Sch. 3 para. 44A inserted (S.) (28.3.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), **ss. 42(3)**, 206(1); S.I. 2011/178, art. 2, **Sch.**

45 An offence under section 52 of the Civic Government (Scotland) Act 1982 (c. 45) (taking and distribution of indecent images of children).

46 An offence under section 52A of that Act (possession of indecent images of children).

47 An offence under section 106 of the Mental Health (Scotland) Act 1984 (c. 36) (protection of mentally handicapped females).

48 An offence under section 107 of that Act (protection of patients).

49 An offence under section 1 of the Criminal Law (Consolidation) (Scotland) Act 1995 (c. 39) (incest), if a person (other than the offender) involved in the offence was under 18.

50 An offence under section 2 of that Act (intercourse with a stepchild), if a person (other than the offender) involved in the offence was under 18.

51 An offence under section 3 of that Act (intercourse with child under 16 by person in position of trust).

52 An offence under section 5 of that Act (unlawful intercourse with girl under 16), save in the case of an offence in contravention of subsection (3) of that section where the offender was under 20.



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- 53 An offence under section 6 of that Act (indecent behaviour towards girl between 12 and 16).
- 54 An offence under section 8 of that Act (abduction of girl under 18 for purposes of unlawful intercourse).
- 55 An offence under section 10 of that Act (person having parental responsibilities causing or encouraging sexual activity in relation to a girl under 16).
- 56 An offence under section 13(5) of that Act (homosexual offences) unless every person involved (whether in the offence or in the homosexual act) was 16 or over and was a willing participant.
- 57 An offence under section 3 of the Sexual Offences (Amendment) Act 2000 (c. 44) (abuse of position of trust), where the offender was 20 or over.
- 58 An offence under section 311(1) of the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13) (non-consensual sexual acts).
- 59 An offence under section 313(1) of that Act (persons providing care services: sexual offences).

VALID FROM 07/10/2005

- [<sup>F8</sup>59A An offence under section 1 of the Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005 (asp 9)(meeting a child following certain preliminary contact) if—
- (a) the offender—
    - (i) was 18 or over, or
    - (ii) is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months, or
  - (b) in imposing sentence or otherwise disposing of the case, the court determines that it is appropriate that the offender be regarded, for the purposes of Part 2 of this Act, as a person who has committed an offence under this paragraph.

#### Textual Amendments

- F8** Sch. 3 paras. 59A-59C inserted (7.10.2005) by [Protection of Children and Prevention of Sexual Offences \(Scotland\) Act 2005 \(asp 9\)](#), ss. 18, 20, **Sch. para. 3(c)**; S.S.I. 2005/480, **art. 2** (subject to art. 3) (which amending s. 18, Sch. para. 3 were extended (8.11.2006) by [Violent Crime Reduction Act 2006 \(c. 38\)](#), s. 56(1)(b))

VALID FROM 07/10/2005

- 59B An offence under section 9 of that Act (paying for sexual services of a child), if—
- (a) the victim or (as the case may be) other party was under 16 and the offender—
    - (i) was 18 or over, or
    - (ii) is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months, or

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- (b) in imposing sentence or otherwise disposing of the case, the court determines that it is appropriate that the offender be regarded, for the purposes of Part 2 of this Act, as a person who has committed an offence under this paragraph.

#### Textual Amendments

- F8** Sch. 3 paras. 59A-59C inserted (7.10.2005) by Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005 (asp 9), ss. 18, 20, **Sch. para. 3(c)**; S.S.I. 2005/480, **art. 2** (subject to art. 3) (which amending s. 18, Sch. para. 3 were extended (8.11.2006) by Violent Crime Reduction Act 2006 (c. 38), s. 56(1)(b))

VALID FROM 07/10/2005

- 59C An offence under any of sections 10 to 12 of that Act, if—
- (a) the provider of sexual services or (as the case may be) person involved in pornography was under 16 and the offender—
- (i) was 18 or over, or
- (ii) is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months, or
- (b) in imposing sentence or otherwise disposing of the case, the court determines that it is appropriate that the offender be regarded, for the purposes of Part 2 of this Act, as a person who has committed an offence under this paragraph.]

#### Textual Amendments

- F8** Sch. 3 paras. 59A-59C inserted (7.10.2005) by Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005 (asp 9), ss. 18, 20, **Sch. para. 3(c)**; S.S.I. 2005/480, **art. 2** (subject to art. 3) (which amending s. 18, Sch. para. 3 were extended (8.11.2006) by Violent Crime Reduction Act 2006 (c. 38), s. 56(1)(b))

VALID FROM 01/12/2010

- [<sup>F9</sup>59D An offence under section 1 of the Sexual Offences (Scotland) Act 2009 (asp 9) (rape).

#### Textual Amendments

- F9** Sch. 3 paras. 59D-59ZL inserted (S.) (1.12.2010) by Sexual Offences (Scotland) Act 2009 (asp 9), ss. 61(1), 62(2), **Sch. 5 para. 5(c)**; S.S.I. 2010/357, **art. 2(a)**

VALID FROM 01/12/2010

- 59E An offence under section 2 of that Act (sexual assault by penetration).

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**Textual Amendments**

- F9** Sch. 3 paras. 59D-59ZL inserted (S.) (1.12.2010) by Sexual Offences (Scotland) Act 2009 (asp 9), ss. 61(1), 62(2), **Sch. 5 para. 5(c)**; S.S.I. 2010/357, **art. 2(a)**

VALID FROM 01/12/2010

59F An offence under section 3 of that Act (sexual assault).

**Textual Amendments**

- F9** Sch. 3 paras. 59D-59ZL inserted (S.) (1.12.2010) by Sexual Offences (Scotland) Act 2009 (asp 9), ss. 61(1), 62(2), **Sch. 5 para. 5(c)**; S.S.I. 2010/357, **art. 2(a)**

VALID FROM 01/12/2010

59G An offence under section 4 of that Act (sexual coercion).

**Textual Amendments**

- F9** Sch. 3 paras. 59D-59ZL inserted (S.) (1.12.2010) by Sexual Offences (Scotland) Act 2009 (asp 9), ss. 61(1), 62(2), **Sch. 5 para. 5(c)**; S.S.I. 2010/357, **art. 2(a)**

VALID FROM 01/12/2010

59H An offence under section 5 of that Act (coercing a person into being present during a sexual activity).

**Textual Amendments**

- F9** Sch. 3 paras. 59D-59ZL inserted (S.) (1.12.2010) by Sexual Offences (Scotland) Act 2009 (asp 9), ss. 61(1), 62(2), **Sch. 5 para. 5(c)**; S.S.I. 2010/357, **art. 2(a)**

VALID FROM 01/12/2010

59I An offence under section 6 of that Act (coercing a person into looking at a sexual image).

**Textual Amendments**

- F9** Sch. 3 paras. 59D-59ZL inserted (S.) (1.12.2010) by Sexual Offences (Scotland) Act 2009 (asp 9), ss. 61(1), 62(2), **Sch. 5 para. 5(c)**; S.S.I. 2010/357, **art. 2(a)**

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VALID FROM 01/12/2010

59J An offence under section 7(1) of that Act (communicating indecently).

**Textual Amendments**

**F9** Sch. 3 paras. 59D-59ZL inserted (S.) (1.12.2010) by [Sexual Offences \(Scotland\) Act 2009 \(asp 9\)](#), ss. 61(1), 62(2), [Sch. 5 para. 5\(c\)](#); S.S.I. 2010/357, [art. 2\(a\)](#)

VALID FROM 01/12/2010

59K An offence under section 7(2) of that Act (causing a person to see or hear an indecent communication).

**Textual Amendments**

**F9** Sch. 3 paras. 59D-59ZL inserted (S.) (1.12.2010) by [Sexual Offences \(Scotland\) Act 2009 \(asp 9\)](#), ss. 61(1), 62(2), [Sch. 5 para. 5\(c\)](#); S.S.I. 2010/357, [art. 2\(a\)](#)

VALID FROM 01/12/2010

59L An offence under section 8 of that Act (sexual exposure) if—

- (a) the offender, in respect of the offence, is or has been—
  - (i) sentenced to a term of imprisonment, or
  - (ii) admitted to a hospital, or
- (b) the offender was 18 or over and the victim was under 18.

**Textual Amendments**

**F9** Sch. 3 paras. 59D-59ZL inserted (S.) (1.12.2010) by [Sexual Offences \(Scotland\) Act 2009 \(asp 9\)](#), ss. 61(1), 62(2), [Sch. 5 para. 5\(c\)](#); S.S.I. 2010/357, [art. 2\(a\)](#)

VALID FROM 01/12/2010

59M An offence under section 9 of that Act (voyeurism).

**Textual Amendments**

**F9** Sch. 3 paras. 59D-59ZL inserted (S.) (1.12.2010) by [Sexual Offences \(Scotland\) Act 2009 \(asp 9\)](#), ss. 61(1), 62(2), [Sch. 5 para. 5\(c\)](#); S.S.I. 2010/357, [art. 2\(a\)](#)

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VALID FROM 01/12/2010

59N An offence under section 11 of that Act (administering a substance for sexual purposes).

**Textual Amendments**

**F9** Sch. 3 paras. 59D-59ZL inserted (S.) (1.12.2010) by Sexual Offences (Scotland) Act 2009 (asp 9), ss. 61(1), 62(2), Sch. 5 para. 5(c); S.S.I. 2010/357, art. 2(a)

VALID FROM 01/12/2010

59O An offence under section 18 of that Act (rape of a young child).

**Textual Amendments**

**F9** Sch. 3 paras. 59D-59ZL inserted (S.) (1.12.2010) by Sexual Offences (Scotland) Act 2009 (asp 9), ss. 61(1), 62(2), Sch. 5 para. 5(c); S.S.I. 2010/357, art. 2(a)

VALID FROM 01/12/2010

59P An offence under section 19 of that Act (sexual assault on a young child by penetration).

**Textual Amendments**

**F9** Sch. 3 paras. 59D-59ZL inserted (S.) (1.12.2010) by Sexual Offences (Scotland) Act 2009 (asp 9), ss. 61(1), 62(2), Sch. 5 para. 5(c); S.S.I. 2010/357, art. 2(a)

VALID FROM 01/12/2010

59Q An offence under section 20 of that Act (sexual assault on a young child).

**Textual Amendments**

**F9** Sch. 3 paras. 59D-59ZL inserted (S.) (1.12.2010) by Sexual Offences (Scotland) Act 2009 (asp 9), ss. 61(1), 62(2), Sch. 5 para. 5(c); S.S.I. 2010/357, art. 2(a)

VALID FROM 01/12/2010

59R An offence under section 21 of that Act (causing a young child to participate in a sexual activity).

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**Textual Amendments**

**F9** Sch. 3 paras. 59D-59ZL inserted (S.) (1.12.2010) by Sexual Offences (Scotland) Act 2009 (asp 9), ss. 61(1), 62(2), **Sch. 5 para. 5(c)**; S.S.I. 2010/357, **art. 2(a)**

VALID FROM 01/12/2010

59S An offence under section 22 of that Act (causing a young child to be present during a sexual activity).

**Textual Amendments**

**F9** Sch. 3 paras. 59D-59ZL inserted (S.) (1.12.2010) by Sexual Offences (Scotland) Act 2009 (asp 9), ss. 61(1), 62(2), **Sch. 5 para. 5(c)**; S.S.I. 2010/357, **art. 2(a)**

VALID FROM 01/12/2010

59T An offence under section 23 of that Act (causing a young child to look at a sexual image).

**Textual Amendments**

**F9** Sch. 3 paras. 59D-59ZL inserted (S.) (1.12.2010) by Sexual Offences (Scotland) Act 2009 (asp 9), ss. 61(1), 62(2), **Sch. 5 para. 5(c)**; S.S.I. 2010/357, **art. 2(a)**

VALID FROM 01/12/2010

59U An offence under section 24(1) of that Act (communicating indecently with a young child).

**Textual Amendments**

**F9** Sch. 3 paras. 59D-59ZL inserted (S.) (1.12.2010) by Sexual Offences (Scotland) Act 2009 (asp 9), ss. 61(1), 62(2), **Sch. 5 para. 5(c)**; S.S.I. 2010/357, **art. 2(a)**

VALID FROM 01/12/2010

59V An offence under section 24(2) of that Act (causing a young child to see or hear an indecent communication).

**Textual Amendments**

**F9** Sch. 3 paras. 59D-59ZL inserted (S.) (1.12.2010) by Sexual Offences (Scotland) Act 2009 (asp 9), ss. 61(1), 62(2), **Sch. 5 para. 5(c)**; S.S.I. 2010/357, **art. 2(a)**

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VALID FROM 01/12/2010

59W An offence under section 25 of that Act (sexual exposure to a young child).

**Textual Amendments**

**F9** Sch. 3 paras. 59D-59ZL inserted (S.) (1.12.2010) by Sexual Offences (Scotland) Act 2009 (asp 9), ss. 61(1), 62(2), Sch. 5 para. 5(c); S.S.I. 2010/357, art. 2(a)

VALID FROM 01/12/2010

59X An offence under section 26 of that Act (voyeurism towards a young child).

**Textual Amendments**

**F9** Sch. 3 paras. 59D-59ZL inserted (S.) (1.12.2010) by Sexual Offences (Scotland) Act 2009 (asp 9), ss. 61(1), 62(2), Sch. 5 para. 5(c); S.S.I. 2010/357, art. 2(a)

VALID FROM 01/12/2010

59Y An offence under section 28 of that Act (having intercourse with an older child) if the offender—

- (a) was 18 or over, or
- (b) in respect of the offence, is or has been—
  - (i) sentenced to a term of imprisonment, or
  - (ii) admitted to a hospital.

**Textual Amendments**

**F9** Sch. 3 paras. 59D-59ZL inserted (S.) (1.12.2010) by Sexual Offences (Scotland) Act 2009 (asp 9), ss. 61(1), 62(2), Sch. 5 para. 5(c); S.S.I. 2010/357, art. 2(a)

VALID FROM 01/12/2010

59Z An offence under section 29 of that Act (engaging in penetrative sexual activity with or towards an older child) if the offender—

- (a) was 18 or over, or
- (b) in respect of the offence, is or has been—
  - (i) sentenced to a term of imprisonment, or
  - (ii) admitted to a hospital.

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#### Textual Amendments

- F9** Sch. 3 paras. 59D-59ZL inserted (S.) (1.12.2010) by Sexual Offences (Scotland) Act 2009 (asp 9), ss. 61(1), 62(2), **Sch. 5 para. 5(c)**; S.S.I. 2010/357, **art. 2(a)**

VALID FROM 01/12/2010

- 59ZA** An offence under section 30 of that Act (engaging in sexual activity with or towards an older child) if the offender—
- (a) was 18 or over, or
  - (b) in respect of the offence, is or has been—
    - (i) sentenced to a term of imprisonment, or
    - (ii) admitted to a hospital.

#### Textual Amendments

- F9** Sch. 3 paras. 59D-59ZL inserted (S.) (1.12.2010) by Sexual Offences (Scotland) Act 2009 (asp 9), ss. 61(1), 62(2), **Sch. 5 para. 5(c)**; S.S.I. 2010/357, **art. 2(a)**

VALID FROM 01/12/2010

- 59ZB** An offence under section 31 of that Act (causing an older child to participate in a sexual activity) if the offender—
- (a) was 18 or over, or
  - (b) in respect of the offence, is or has been—
    - (i) sentenced to a term of imprisonment, or
    - (ii) admitted to a hospital.

#### Textual Amendments

- F9** Sch. 3 paras. 59D-59ZL inserted (S.) (1.12.2010) by Sexual Offences (Scotland) Act 2009 (asp 9), ss. 61(1), 62(2), **Sch. 5 para. 5(c)**; S.S.I. 2010/357, **art. 2(a)**

VALID FROM 01/12/2010

- 59ZC** An offence under section 32 of that Act (causing an older child to be present during a sexual activity) if the offender—
- (a) was 18 or over, or
  - (b) in respect of the offence, is or has been—
    - (i) sentenced to a term of imprisonment, or
    - (ii) admitted to a hospital.



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#### Textual Amendments

- F9** Sch. 3 paras. 59D-59ZL inserted (S.) (1.12.2010) by Sexual Offences (Scotland) Act 2009 (asp 9), ss. 61(1), 62(2), **Sch. 5 para. 5(c)**; S.S.I. 2010/357, **art. 2(a)**

VALID FROM 01/12/2010

- 59ZD** An offence under section 33 of that Act (causing an older child to look at a sexual image) if the offender—
- (a) was 18 or over, or
  - (b) in respect of the offence, is or has been—
    - (i) sentenced to a term of imprisonment, or
    - (ii) admitted to a hospital.

#### Textual Amendments

- F9** Sch. 3 paras. 59D-59ZL inserted (S.) (1.12.2010) by Sexual Offences (Scotland) Act 2009 (asp 9), ss. 61(1), 62(2), **Sch. 5 para. 5(c)**; S.S.I. 2010/357, **art. 2(a)**

VALID FROM 01/12/2010

- 59ZE** An offence under section 34(1) of that Act (communicating indecently with an older child) if the offender—
- (a) was 18 or over, or
  - (b) in respect of the offence, is or has been—
    - (i) sentenced to a term of imprisonment, or
    - (ii) admitted to a hospital.

#### Textual Amendments

- F9** Sch. 3 paras. 59D-59ZL inserted (S.) (1.12.2010) by Sexual Offences (Scotland) Act 2009 (asp 9), ss. 61(1), 62(2), **Sch. 5 para. 5(c)**; S.S.I. 2010/357, **art. 2(a)**

VALID FROM 01/12/2010

- 59ZF** An offence under section 34(2) of that Act (causing an older child to see or hear an indecent communication) if the offender—
- (a) was 18 or over, or
  - (b) in respect of the offence, is or has been—
    - (i) sentenced to a term of imprisonment, or
    - (ii) admitted to a hospital.

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#### Textual Amendments

- F9** Sch. 3 paras. 59D-59ZL inserted (S.) (1.12.2010) by Sexual Offences (Scotland) Act 2009 (asp 9), ss. 61(1), 62(2), **Sch. 5 para. 5(c)**; S.S.I. 2010/357, **art. 2(a)**

VALID FROM 01/12/2010

- 59ZG An offence under section 35 of that Act (sexual exposure to an older child) if the offender—
- (a) was 18 or over, or
  - (b) in respect of the offence, is or has been—
    - (i) sentenced to a term of imprisonment, or
    - (ii) admitted to a hospital.

#### Textual Amendments

- F9** Sch. 3 paras. 59D-59ZL inserted (S.) (1.12.2010) by Sexual Offences (Scotland) Act 2009 (asp 9), ss. 61(1), 62(2), **Sch. 5 para. 5(c)**; S.S.I. 2010/357, **art. 2(a)**

VALID FROM 01/12/2010

- 59ZH An offence under section 36 of that Act (voyeurism towards an older child) if the offender—
- (a) was 18 or over, or
  - (b) in respect of the offence, is or has been—
    - (i) sentenced to a term of imprisonment, or
    - (ii) admitted to a hospital.

#### Textual Amendments

- F9** Sch. 3 paras. 59D-59ZL inserted (S.) (1.12.2010) by Sexual Offences (Scotland) Act 2009 (asp 9), ss. 61(1), 62(2), **Sch. 5 para. 5(c)**; S.S.I. 2010/357, **art. 2(a)**

VALID FROM 01/12/2010

- 59ZI An offence under section 37(1) of that Act (engaging while an older child in sexual conduct with or towards another older child) if, in respect of the offence, the offender is or has been—
- (a) sentenced to a term of imprisonment, or
  - (b) admitted to a hospital.

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#### Textual Amendments

- F9** Sch. 3 paras. 59D-59ZL inserted (S.) (1.12.2010) by Sexual Offences (Scotland) Act 2009 (asp 9), ss. 61(1), 62(2), **Sch. 5 para. 5(c)**; S.S.I. 2010/357, **art. 2(a)**

VALID FROM 01/12/2010

- 59ZJ An offence under section 37(4) of that Act (engaging while an older child in consensual sexual conduct with another older child) if, in respect of the offence, the offender is or has been—
- (a) sentenced to a term of imprisonment, or
  - (b) admitted to a hospital.

#### Textual Amendments

- F9** Sch. 3 paras. 59D-59ZL inserted (S.) (1.12.2010) by Sexual Offences (Scotland) Act 2009 (asp 9), ss. 61(1), 62(2), **Sch. 5 para. 5(c)**; S.S.I. 2010/357, **art. 2(a)**

VALID FROM 01/12/2010

- 59ZK An offence under section 42 of that Act (sexual abuse of trust) where (either or both)—
- (a) the offender is 20 or over,
  - (b) the condition set out in section 43(6) of that Act is fulfilled.

#### Textual Amendments

- F9** Sch. 3 paras. 59D-59ZL inserted (S.) (1.12.2010) by Sexual Offences (Scotland) Act 2009 (asp 9), ss. 61(1), 62(2), **Sch. 5 para. 5(c)**; S.S.I. 2010/357, **art. 2(a)**

VALID FROM 01/12/2010

- 59ZL An offence under section 46 of that Act (sexual abuse of trust of a mentally disordered person).]

#### Textual Amendments

- F9** Sch. 3 paras. 59D-59ZL inserted (S.) (1.12.2010) by Sexual Offences (Scotland) Act 2009 (asp 9), ss. 61(1), 62(2), **Sch. 5 para. 5(c)**; S.S.I. 2010/357, **art. 2(a)**

- 60 An offence in Scotland other than is mentioned in paragraphs 36 to 59 if the court, in imposing sentence or otherwise disposing of the case, determines for the purposes of this paragraph that there was a significant sexual aspect to the offender's behaviour in committing the offence.

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### *Northern Ireland*

- 61 Rape.
- 62 An offence under section 52 of the Offences against the Person Act 1861 (c. 100) (indecent assault upon a female) if—
- (a) where the offender was under 18, he is or has been sentenced, in respect of the offence, to imprisonment for a term of at least 12 months;
  - (b) in any other case—
    - (i) the victim was under 18, or
    - (ii) the offender, in respect of the offence or finding, is or has been—
      - (a) sentenced to a term of imprisonment,
      - (b) detained in a hospital, or
      - (c) made the subject of a community sentence of at least 12 months.
- 63 An offence under section 53 or 54 of that Act (abduction of woman by force for unlawful sexual intercourse) if the offender—
- (a) was 18 or over, or
  - (b) is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months.
- 64 An offence under section 61 of that Act (buggery) if—
- (a) the offender was 20 or over, and
  - (b) the victim or (as the case may be) other party was under 18.
- 65 An offence under section 62 of that Act of assault with intent to commit buggery if the victim or (as the case may be) other party was under 18, and the offender —
- (a) was 18 or over, or
  - (b) is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months.
- 66 An offence under section 62 of that Act of indecent assault upon a male person if—
- (a) where the offender was under 18, he is or has been sentenced, in respect of the offence, to imprisonment for a term of at least 12 months;
  - (b) in any other case—
    - (i) the victim was under 18, or
    - (ii) the offender, in respect of the offence or finding, is or has been—
      - (a) sentenced to a term of imprisonment,
      - (b) detained in a hospital, or
      - (c) made the subject of a community sentence of at least 12 months.
- 67 An offence under section 2 of the Criminal Law Amendment Act 1885 (c. 69) (procuration) if the offender—
- (a) was 18 or over, or
  - (b) is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months.
- 68 An offence under section 3 of that Act (procuring defilement of woman by threats or fraud, etc.) if the offender—
- (a) was 18 or over, or

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- (b) is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months.
- 69 An offence under section 4 of that Act of unlawful carnal knowledge of a girl under 14 if the offender—
- (a) was 18 or over, or
  - (b) is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months.
- 70 An offence under section 5 of that Act of unlawful carnal knowledge of a girl under 17, if the offender was 20 or over.
- 71 An offence under section 7 of that Act (abduction of girl under 18) if the offender—
- (a) was 18 or over, or
  - (b) is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months.
- 72 An offence under section 11 of that Act (homosexual offences) if—
- (a) the offender was 20 or over, and
  - (b) the victim or (as the case may be) other party was under 18.
- 73 An offence under section 1 of the Punishment of Incest Act 1908 (c. 45) (incest by males), if —
- (a) where the offender was under 18, he is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months;
  - (b) in any other case—
    - (i) the victim or (as the case may be) other party was under 18, or
    - (ii) the offender, in respect of the offence or finding, is or has been—
      - (a) sentenced to a term of imprisonment, or
      - (b) detained in a hospital.
- 74 An offence under section 2 of that Act (incest by females), if—
- (a) where the offender was under 18, he is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months;
  - (b) in any other case—
    - (i) the victim or (as the case may be) other party was under 18, or
    - (ii) the offender, in respect of the offence or finding, is or has been—
      - (a) sentenced to a term of imprisonment, or
      - (b) detained in a hospital.
- 75 An offence under section 21 of the Children and Young Persons Act (Northern Ireland) 1968 (c. 34) (causing or encouraging seduction or prostitution of a girl under 17) if the offender—
- (a) was 18 or over, or
  - (b) is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months.
- 76 An offence under section 22 of that Act (indecent conduct towards a child) if the offender—
- (a) was 18 or over, or
  - (b) is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months.

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- 77 An offence under Article 3 of the Protection of Children (Northern Ireland) Order 1978 (S.I. 1978/1047 (N.I. 17)) (indecent photographs of children) if the offender—
- (a) was 18 or over, or
  - (b) is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months.
- 78 An offence under section 170 of the Customs and Excise Management Act 1979 (c. 2) (penalty for fraudulent evasion of duty etc.) in relation to goods prohibited to be imported under section 42 of the Customs Consolidation Act 1876 (c. 36) (indecent or obscene articles), if the prohibited goods included indecent photographs of persons under 16, and the offender—
- (a) was 18 or over, or
  - (b) is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months.
- 79 An offence under Article 9 of the Criminal Justice (Northern Ireland) Order 1980 (S.I. 1980/704 (N.I. 6)) (inciting girl under 16 to have incestuous sexual intercourse) if the offender—
- (a) was 18 or over, or
  - (b) is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months.
- 80 An offence under Article 122 of the Mental Health (Northern Ireland) Order 1986 (S.I. 1986/595 (N.I. 4)) (offences against women suffering from severe mental handicap).
- 81 An offence under Article 123 of that Order (offences against patients) if—
- (a) where the offender was under 18, he is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months;
  - (b) in any other case, the offender, in respect of the offence or finding, is or has been—
    - (i) sentenced to a term of imprisonment,
    - (ii) detained in a hospital, or
    - (iii) made the subject of a community sentence of at least 12 months.
- 82 An offence under Article 15 of the Criminal Justice (Evidence, etc.) (Northern Ireland) Order 1988 (S.I. 1988/1847 (N.I. 17)) (possession of indecent photographs of children) if the offender—
- (a) was 18 or over, or
  - (b) is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months.
- 83 An offence under section 3 of the Sexual Offences (Amendment) Act 2000 (c. 44) (abuse of position of trust), if the offender, in respect of the offence or finding, is or has been—
- (a) sentenced to a term of imprisonment,
  - (b) detained in a hospital, or
  - (c) made the subject of a community sentence of at least 12 months.
- 84 An offence under Article 19 of the Criminal Justice (Northern Ireland) Order 2003 (S.I. 2003/1247 (N.I. 13)) (buggery) if—
- (a) the offender was 20 or over, and
  - (b) the victim or (as the case may be) other party was under 17.

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

VALID FROM 19/02/2007

- <sup>F10</sup>89A An offence under section 48 of this Act (causing or inciting child prostitution or pornography) if the offender –
- (a) was 18 or over, or
  - (b) is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months.

#### Textual Amendments

**F10** Sch. 3 paras. 89A-89C inserted (19.2.2007) by [The Sexual Offences Act 2003 \(Amendment of Schedules 3 and 5\) Order 2007 \(S.I. 2007/296\)](#), arts. 1(1), **2(3)**

VALID FROM 19/02/2007

- 89B An offence under section 49 of this Act (controlling a child prostitute or a child involved in pornography) if the offender –

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- (a) was 18 or over, or
- (b) is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months.

#### Textual Amendments

**F10** Sch. 3 paras. 89A-89C inserted (19.2.2007) by [The Sexual Offences Act 2003 \(Amendment of Schedules 3 and 5\) Order 2007 \(S.I. 2007/296\)](#), arts. 1(1), **2(3)**

VALID FROM 19/02/2007

- 89C An offence under section 50 of this Act (arranging or facilitating child prostitution or pornography) if the offender –
- (a) was 18 or over, or
  - (b) is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months.]

#### Textual Amendments

**F10** Sch. 3 paras. 89A-89C inserted (19.2.2007) by [The Sexual Offences Act 2003 \(Amendment of Schedules 3 and 5\) Order 2007 \(S.I. 2007/296\)](#), arts. 1(1), **2(3)**

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



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- (b) in any other case, the offender, in respect of the offence or finding, is or has been—
  - (i) sentenced to a term of imprisonment, or
  - (ii) detained in a hospital.

VALID FROM 02/02/2009

- 92B An offence under Article 7 of that Order (sexual assault) if—
- (a) where the offender was under 18, he is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months;
  - (b) in any other case—
    - (i) the victim was under 18, or
    - (ii) the offender, in respect of the offence or finding, is or has been—
      - (aa) sentenced to a term of imprisonment,
      - (bb) detained in a hospital, or
      - (cc) made the subject of a community sentence of at least 12 months.

VALID FROM 02/02/2009

- 92C An offence under Article 8, 12 or 13 of that Order (causing sexual activity without consent, rape of a child under 13, assault of a child under 13 by penetration).

VALID FROM 02/02/2009

- 92D An offence under Article 14 of that Order (sexual assault of a child under 13) if the offender—
- (a) was 18 or over, or
  - (b) is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months.

VALID FROM 02/02/2009

- 92E An offence under any of Articles 15 to 19 of that Order (causing or inciting a child under 13 to engage in sexual activity, sexual offences against children committed by adults).

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VALID FROM 02/02/2009

92F An offence under Article 20 of that Order (sexual offences against children committed by children or young persons), if the offender is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months.

VALID FROM 02/02/2009

92G An offence under Article 21 of that Order (arranging or facilitating the commission of a sexual offence against a child) if the offender—

- (a) was 18 or over, or
- (b) is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months.

VALID FROM 02/02/2009

92H An offence under Article 22 of that Order (meeting a child following sexual grooming etc).

VALID FROM 02/02/2009

92I An offence under any of Articles 23 to 26 of that Order (abuse of a position of trust) if the offender, in respect of the offence, is or has been—

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

VALID FROM 02/02/2009

92J An offence under Article 32 or 33 of that Order (familial sexual offences against children) if the offender—

- (a) was 18 or over, or
- (b) is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months.

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VALID FROM 02/02/2009

92K An offence under Article 37 (paying for sexual services of a child) if the victim or (as the case may be) other party was under 16, and the offender—

- (a) was 18 or over, or
- (b) is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months.

VALID FROM 02/02/2009

92L An offence under Article 38 (causing or inciting child prostitution or pornography) if the offender—

- (a) was 18 or over, or
- (b) is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months.

VALID FROM 02/02/2009

92M An offence under Article 39 (controlling a child prostitute or a child involved in pornography) if the offender—

- (a) was 18 or over, or
- (b) is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months.

VALID FROM 02/02/2009

92N An offence under Article 40 (arranging or facilitating child prostitution or pornography) if the offender—

- (a) was 18 or over, or
- (b) is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months.

VALID FROM 02/02/2009

92O An offence under any of Articles 43 to 50 of that Order (offences against persons with a mental disorder impeding choice, inducements etc. to persons with mental disorder).

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VALID FROM 02/02/2009

- 92P An offence under any of Articles 51 to 54 of that Order (care workers for persons with mental disorder) if—
- (a) where the offender was under 18, he is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months;
  - (b) in any other case, the offender, in respect of the offence or finding, is or has been—
    - (i) sentenced to a term of imprisonment,
    - (ii) detained in a hospital, or
    - (iii) made the subject of a community sentence of at least 12 months.

VALID FROM 02/02/2009

- 92Q An offence under Article 65 of that Order (administering a substance with intent).

VALID FROM 02/02/2009

- 92R An offence under Article 66 or 67 of that Order (committing an offence or trespassing, with intent to commit a sexual offence) if—
- (a) where the offender was under 18, he is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months;
  - (b) in any other case—
    - (i) the intended offence was an offence against a person under 18, or
    - (ii) the offender, in respect of the offence or finding, is or has been—
      - (aa) sentenced to a term of imprisonment,
      - (bb) detained in a hospital, or
      - (cc) made the subject of a community sentence of at least 12 months.

VALID FROM 02/02/2009

- 92S An offence under Article 68 or 69 of that Order (sex with an adult relative) if—
- (a) where the offender was under 18, he is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months;
  - (b) in any other case, the offender, in respect of the offence or finding, is or has been—

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- (i) sentenced to a term of imprisonment, or
- (ii) detained in a hospital.

VALID FROM 02/02/2009

- 92T An offence under Article 70 of that Order (exposure) if—
- (a) where the offender was under 18, he is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months;
  - (b) in any other case—
    - (i) the victim was under 18, or
    - (ii) the offender, in respect of the offence or finding, is or has been—
      - (aa) sentenced to a term of imprisonment,
      - (bb) detained in a hospital, or
      - (cc) made the subject of a community sentence of at least 12 months.

VALID FROM 02/02/2009

- 92U An offence under Article 71 of that Order (voyeurism) if—
- (a) where the offender was under 18, he is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months;
  - (b) in any other case—
    - (i) the victim was under 18, or
    - (ii) the offender, in respect of the offence or finding, is or has been—
      - (aa) sentenced to a term of imprisonment,
      - (bb) detained in a hospital, or
      - (cc) made the subject of a community sentence of at least 12 months.

VALID FROM 02/02/2009

- 92V An offence under Article 73 or 74 of that Order (intercourse with an animal, penetration of a corpse) if—
- (a) where the offender was under 18, he is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months;
  - (b) in any other case, the offender, in respect of the offence or finding, is or has been—
    - (i) sentenced to a term of imprisonment, or
    - (ii) detained in a hospital.

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VALID FROM 06/04/2010

- [<sup>F11</sup>92X An offence under section 62(1) of the Coroners and Justice Act 2009 (possession of prohibited images of children) if the offender—
- (a) was 18 or over, and
  - (b) is sentenced in respect of the offence to imprisonment for a term of at least 2 years.]

**Textual Amendments**

- F11** Sch. 3 para. 92X inserted (6.4.2010) by [Coroners and Justice Act 2009 \(c. 25\)](#), ss. 177(1), 182(5), [Sch. 21 para. 62\(4\)](#); S.I. 2010/816, [art. 2](#), Sch. para. 20(a) (with art. 7)

VALID FROM 26/01/2009

- [<sup>F12</sup>92A An offence under section 63 of the Criminal Justice and Immigration Act 2008 (possession of extreme pornographic images) if the offender—
- (a) was 18 or over, and
  - (b) is sentenced in respect of the offence to imprisonment for a term of at least 2 years.]

**Textual Amendments**

- F12** Sch. 3 para. 92A inserted (26.1.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 148(1), 153(7), [Sch. 26 para. 58\(3\)](#); S.I. 2008/2993, [art. 2\(2\)\(j\)](#)

*Service offences*

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

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VALID FROM 28/03/2009

- 93A (1) An offence under section 42 of the Armed Forces Act 2006 as respects which the corresponding offence under the law of England and Wales (within the meaning given by that section) is an offence listed in any of paragraphs 1 to [F1335A].
- (2) A reference in any of those paragraphs to being made the subject of a community sentence of at least 12 months is to be read, in relation to an offence under that section, as a reference to—
- (a) being made the subject of a service community order or overseas community order under the Armed Forces Act 2006 of at least 12 months; or
  - (b) being sentenced to a term of service detention of at least 112 days.
- (3) Section 48 of that Act (attempts, conspiracy, [F14encouragement and assistance] and aiding and abetting outside England and Wales) applies for the purposes of this paragraph as if the reference in subsection (3)(b) to any of the following provisions of that Act were a reference to this paragraph.

#### Textual Amendments

- F13** Word in Sch. 3 para. 93A(1) substituted for "35" (E.W.N.I.) (26.1.2009) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 148(1), 153(7), {Sch. 26 para. 58(4)}; S.I. 2008/2993, art. 2(2)(j)
- F14** Words in Sch. 3 para. 93A(3) substituted (1.10.2008) by Serious Crime Act 2007 (c. 27), ss. 60, 94, Sch. 5 para. 4(2) (with Sch. 13 para. 5); S.I. 2008/2504, art. 2(a)

#### Modifications etc. (not altering text)

- C1** Sch. 3 para. 93A modified (24.4.2009 for certain purposes and otherwise 31.10.2009) by The Armed Forces Act 2006 (Transitional Provisions etc) Order 2009 (S.I. 2009/1059), arts. 1(3), 205, Sch. 1 para. 52(3)

#### General

- 94 A reference in a preceding paragraph to an offence includes—
- (a) a reference to an attempt, conspiracy or incitement to commit that offence, and
  - (b) except in paragraphs 36 to 43, a reference to aiding, abetting, counselling or procuring the commission of that offence.

VALID FROM 01/10/2008

- [F1594A A reference in a preceding paragraph to an offence (“offence A”) includes a reference to an offence under Part 2 of the Serious Crime Act 2007 in relation to which offence A is the offence (or one of the offences) which the person intended or believed would be committed.]

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#### Textual Amendments

**F15** Sch. 3 para. 94A inserted (E.W.N.I.) (1.10.2008) by [Serious Crime Act 2007 \(c. 27\)](#), ss. 63(2), 94, [Sch. 6 para. 63\(2\)](#) (with [Sch. 13 para. 5](#)); S.I. 2008/2504, [art. 2\(a\)](#)

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



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