



# Violent Crime Reduction Act 2006

## 2006 CHAPTER 38

### PART 3

#### MISCELLANEOUS

#### *Sexual offences*

#### 55 Continuity of sexual offences law

- (1) This section applies where, in any proceedings—
- (a) a person (“the defendant”) is charged in respect of the same conduct both with an offence under the Sexual Offences Act 2003 (“the 2003 Act offence”) and with an offence specified in subsection (2) (“the pre-commencement offence”);
  - (b) the only thing preventing the defendant from being found guilty of the 2003 Act offence is the fact that it has not been proved beyond a reasonable doubt that the time when the conduct took place was after the coming into force of the enactment providing for the offence; and
  - (c) the only thing preventing the defendant from being found guilty of the pre-commencement offence is the fact that it has not been proved beyond a reasonable doubt that that time was before the coming into force of the repeal of the enactment providing for the offence.
- (2) The offences referred to in subsection (1)(a) are—
- (a) any offence under the Sexual Offences Act 1956 (c. 69);
  - (b) an offence under section 4 of the Vagrancy Act 1824 (c. 83) (obscene exposure);
  - (c) an offence under section 28 of the Town Police Clauses Act 1847 (c. 89) (indecent exposure);
  - (d) an offence under section 61 or 62 of the Offences against the Person Act 1861 (c. 100) (buggery etc.);
  - (e) an offence under section 128 of the Mental Health Act 1959 (c. 72) (sexual intercourse with patients);

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*Status: This is the original version (as it was originally enacted).*

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- (f) an offence under section 1 of the Indecency with Children Act 1960 (c. 33) (indecent with children);
  - (g) an offence under section 4 or 5 of the Sexual Offences Act 1967 (procuring an man to commit buggery and living on the earnings of male prostitution);
  - (h) an offence under section 9 of the Theft Act 1968 (c. 60) (burglary, including entering premises with intent to commit rape);
  - (i) an offence under section 54 of the Criminal Law Act 1977 (c. 45) (incitement of girl under 16 to commit incest);
  - (j) an offence under section 1 of the Protection of Children Act 1978 (c. 37) (indecent photographs of children);
  - (k) an offence under section 3 of the Sexual Offences (Amendment) Act 2000 (c. 44) (abuse of position of trust);
  - (l) an offence under section 145 of the Nationality, Immigration and Asylum Act 2002 (c. 41) (traffic in prostitution).
- (3) For the purpose of determining the guilt of the defendant it shall be conclusively presumed that the time when the conduct took place was—
- (a) if the maximum penalty for the pre-commencement offence is less than the maximum penalty for the 2003 Act offence, a time before the coming into force of the repeal of the enactment providing for the pre-commencement offence; and
  - (b) in any other case, a time after the coming into force of the enactment providing for the 2003 Act offence.
- (4) In subsection (3) the reference, in relation an offence, to the maximum penalty is a reference to the maximum penalty by way imprisonment or other detention that could be imposed on the defendant on conviction of the offence in the proceedings in question.
- (5) A reference in this section to an offence under the Sexual Offences Act 2003 (c. 42) or to an offence specified in subsection (2) includes a reference to—
- (a) inciting the commission of that offence;
  - (b) conspiracy to commit that offence; and
  - (c) attempting to commit that offence;
- and, in relation to an offence falling within paragraphs (a) to (c), a reference in this section to the enactment providing for the offence so falling has effect as a reference to the enactment providing for the offence under that Act or, as the case may be, for the offence so specified.
- (6) This section applies to any proceedings, whenever commenced, other than proceedings in which the defendant has been convicted or acquitted of the 2003 Act offence or the pre-commencement offence before the commencement of this section.