



Criminal Justice and Immigration Act 2008

2008 CHAPTER 4

PART 5

CRIMINAL LAW

Sexual offences

72 Offences committed outside the United Kingdom

(1) For section 72 of the Sexual Offences Act 2003 (c. 42) substitute—

“72 Offences outside the United Kingdom

(1) If—

- (a) a United Kingdom national does an act in a country outside the United Kingdom, and
- (b) the act, if done in England and Wales or Northern Ireland, would constitute a sexual offence to which this section applies,

the United Kingdom national is guilty in that part of the United Kingdom of that sexual offence.

(2) If—

- (a) a United Kingdom resident does an act in a country outside the United Kingdom,
- (b) the act constitutes an offence under the law in force in that country, and
- (c) the act, if done in England and Wales or Northern Ireland, would constitute a sexual offence to which this section applies,

the United Kingdom resident is guilty in that part of the United Kingdom of that sexual offence.

Status: This is the original version (as it was originally enacted).

(3) If—

- (a) a person does an act in a country outside the United Kingdom at a time when the person was not a United Kingdom national or a United Kingdom resident,
- (b) the act constituted an offence under the law in force in that country,
- (c) the act, if done in England and Wales or Northern Ireland, would have constituted a sexual offence to which this section applies, and
- (d) the person meets the residence or nationality condition at the relevant time,

proceedings may be brought against the person in that part of the United Kingdom for that sexual offence as if the person had done the act there.

(4) The person meets the residence or nationality condition at the relevant time if the person is a United Kingdom national or a United Kingdom resident at the time when the proceedings are brought.

(5) An act punishable under the law in force in any country constitutes an offence under that law for the purposes of subsections (2) and (3) however it is described in that law.

(6) The condition in subsection (2)(b) or (3)(b) 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 the defendant’s opinion met,
- (b) showing the grounds for that opinion, and
- (c) requiring the prosecution to prove that it is met.

(7) But 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 (6).

(8) In the Crown Court the question whether the condition is met is to be decided by the judge alone.

(9) In this section—

“country” includes territory;

“United Kingdom national” means an individual who is—

- (a) a British citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen;
- (b) a person who under the British Nationality Act 1981 is a British subject; or
- (c) a British protected person within the meaning of that Act;

“United Kingdom resident” means an individual who is resident in the United Kingdom.

(10) Schedule 2 lists the sexual offences to which this section applies.”

(2) Schedule 2 to that Act (list of sexual offences to which section 72 applies) is amended as follows.

(3) In paragraph 1 (offences under the law of England and Wales)—

- (a) for paragraphs (a) and (b) substitute—

- “(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;”;
 - (b) in paragraph (c), for “16” substitute “18”; and
 - (c) in paragraph (d), omit “in relation to a photograph or pseudo-photograph showing a child under 16”.
- (4) In paragraph 2 (offences under the law of Northern Ireland)—
- (a) in sub-paragraph (1)(c)(iv), for “17” substitute “18”; and
 - (b) in sub-paragraph (2), for “17” substitute “18”.