



# Coroners and Justice Act 2009

## 2009 CHAPTER 25

### PART 2

#### CRIMINAL OFFENCES

### CHAPTER 3

#### OTHER OFFENCES

#### **70 Genocide, crimes against humanity and war crimes**

- (1) The International Criminal Court Act 2001 (c. 17) is amended as follows.
- (2) In sections 53 and 60 (trial and punishment of main offences), after subsection (6) add—
  - “(7) Subsections (5) and (6) are subject to section 65B (restriction of penalties in relation to retrospective application of certain offences).”
- (3) After section 65 insert—

#### **“65A Retrospective application of certain offences**

- (1) Sections 51 and 58 apply to acts committed on or after 1 January 1991.
- (2) But those sections do not apply to a crime against humanity, or a war crime within article 8.2(b) or (e), committed by a person before 1 September 2001 unless, at the time the act constituting that crime was committed, the act amounted in the circumstances to a criminal offence under international law.
- (3) Section 52 applies to conduct in which a person engaged on or after 1 January 1991, and in subsections (2) and (3) of that section references to an offence include an act or conduct which would not constitute an offence under the law of England and Wales but for this section.

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- (4) Section 59 applies to conduct in which a person engaged on or after 1 January 1991, and in subsections (2) and (3) of that section references to an offence include an act or conduct which would not constitute an offence under the law of Northern Ireland but for this section.
- (5) Any enactment or rule of law relating to an offence ancillary to a relevant Part 5 offence—
- (a) applies to conduct in which a person engaged on or after 1 January 1991, and
  - (b) applies even if the act or conduct constituting the relevant Part 5 offence would not constitute such an offence but for this section.
- (6) But sections 52 and 59, and any enactment or rule of law relating to an offence ancillary to a relevant Part 5 offence, do not apply to—
- (a) conduct in which the person engaged before 1 September 2001, or
  - (b) conduct in which the person engaged on or after that date which was ancillary to an act or conduct which—
    - (i) was committed or engaged in before that date, and
    - (ii) would not constitute a relevant Part 5 offence, or fall within section 52(2) or 59(2), but for this section,
 unless, at the time the person engaged in the conduct, it amounted in the circumstances to a criminal offence under international law.
- (7) Section 65, so far as it has effect in relation to relevant Part 5 offences—
- (a) applies to failures to exercise control of the kind mentioned in section 65(2) or (3) which occurred on or after 1 January 1991, and
  - (b) applies even if the act or conduct constituting the relevant Part 5 offence would not constitute such an offence but for this section.
- (8) But section 65, so far as it has effect in relation to relevant Part 5 offences, does not apply to a failure to exercise control of the kind mentioned in section 65(2) or (3) which occurred before 1 September 2001 unless, at the time the failure occurred, it amounted in the circumstances to a criminal offence under international law.
- (9) In this section “relevant Part 5 offence” means an offence under section 51, 52, 58 or 59 or an offence ancillary to such an offence.

#### **65B Modification of penalties: provision supplemental to section 65A**

- (1) In the case of a pre-existing E&W offence committed before 1 September 2001, in section 53(6) “30 years” is to be read as “14 years”.
- (2) In the case of an offence of the kind mentioned in section 55(1)(d) which is ancillary to a pre-existing E&W offence committed before 1 September 2001, nothing in section 53(5) and (6) disapplies the penalties provided for in sections 4 and 5 of the Criminal Law Act 1967.
- (3) In the case of a pre-existing NI offence committed before 1 September 2001, in section 60(6) “30 years” is to be read as “14 years”.
- (4) In the case of an offence of the kind mentioned in section 62(1)(d) which is ancillary to a pre-existing NI offence committed before 1 September 2001,

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nothing in section 60(5) and (6) disapplies the penalties provided for in sections 4 and 5 of the Criminal Law Act (Northern Ireland) 1967.

(5) In this section—

“pre-existing E&W offence” means—

- (a) an offence under section 51 on account of an act constituting genocide, if at the time the act was committed it also amounted to an offence under section 1 of the Genocide Act 1969;
- (b) an offence under section 51 on account of an act constituting a war crime, if at the time the act was committed it also amounted to an offence under section 1 of the Geneva Conventions Act 1957 (grave breaches of the Conventions);
- (c) an offence of a kind mentioned in section 55(1)(a) to (c) which is ancillary to an offence within paragraph (a) or (b) above;

“pre-existing NI offence” means—

- (a) an offence under section 58 on account of an act constituting genocide, if at the time the act was committed it also amounted to an offence under section 1 of the Genocide Act 1969;
- (b) an offence under section 58 on account of an act constituting a war crime, if at the time the act was committed it also amounted to an offence under section 1 of the Geneva Conventions Act 1957 (grave breaches of the Conventions);
- (c) an offence of a kind mentioned in section 62(1)(a) to (c) which is ancillary to an offence within paragraph (a) or (b) above.”

(4) After section 67 insert—

**“67A Supplemental provision about UK residents**

(1) To the extent that it would not otherwise be the case, the following individuals are to be treated for the purposes of this Part as being resident in the United Kingdom—

- (a) an individual who has indefinite leave to remain in the United Kingdom;
- (b) any other individual who has made an application for such leave (whether or not it has been determined) and who is in the United Kingdom;
- (c) an individual who has leave to enter or remain in the United Kingdom for the purposes of work or study and who is in the United Kingdom;
- (d) an individual who has made an asylum claim, or a human rights claim, which has been granted;
- (e) any other individual who has made an asylum claim or human rights claim (whether or not the claim has been determined) and who is in the United Kingdom;
- (f) an individual named in an application for indefinite leave to remain, an asylum claim or a human rights claim as a dependant of the individual making the application or claim if—
  - (i) the application or claim has been granted, or
  - (ii) the named individual is in the United Kingdom (whether or not the application or claim has been determined);

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- (g) an individual who would be liable to removal or deportation from the United Kingdom but cannot be removed or deported because of section 6 of the Human Rights Act 1998 or for practical reasons;
  - (h) an individual—
    - (i) against whom a decision to make a deportation order under section 5(1) of the Immigration Act 1971 by virtue of section 3(5)(a) of that Act (deportation conducive to the public good) has been made,
    - (ii) who has appealed against the decision to make the order (whether or not the appeal has been determined), and
    - (iii) who is in the United Kingdom;
  - (i) an individual who is an illegal entrant within the meaning of section 33(1) of the Immigration Act 1971 or who is liable to removal under section 10 of the Immigration and Asylum Act 1999;
  - (j) an individual who is detained in lawful custody in the United Kingdom.
- (2) When determining for the purposes of this Part whether any other individual is resident in the United Kingdom regard is to be had to all relevant considerations including—
- (a) the periods during which the individual has been or intends to be in the United Kingdom,
  - (b) the purposes for which the individual is, has been or intends to be in the United Kingdom,
  - (c) whether the individual has family or other connections to the United Kingdom and the nature of those connections, and
  - (d) whether the individual has an interest in residential property located in the United Kingdom.
- (3) In this section—
- “asylum claim” means—
- (a) a claim that it would be contrary to the United Kingdom’s obligations under the Refugee Convention for the claimant to be removed from, or required to leave, the United Kingdom, or
  - (b) a claim that the claimant would face a real risk of serious harm if removed from the United Kingdom;
- “Convention rights” means the rights identified as Convention rights by section 1 of the Human Rights Act 1998;
- “detained in lawful custody” means—
- (a) detained in pursuance of a sentence of imprisonment, detention or custody for life or a detention and training order,
  - (b) remanded in or committed to custody by an order of a court,
  - (c) detained pursuant to an order under section 2 of the Colonial Prisoners Removal Act 1884 or a warrant under section 1 or 4A of the Repatriation of Prisoners Act 1984,
  - (d) detained under Part 3 of the Mental Health Act 1983 or by virtue of an order under section 5 of the Criminal Procedure (Insanity) Act 1964 or section 6 or 14 of the Criminal Appeal Act 1968 (hospital orders, etc),

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- (e) detained by virtue of an order under Part 6 of the Criminal Procedure (Scotland) Act 1995 (other than an order under section 60C) or a hospital direction under section 59A of that Act, and includes detention by virtue of the special restrictions set out in Part 10 of the Mental Health (Care and Treatment) (Scotland) Act 2003 to which a person is subject by virtue of an order under section 59 of the Criminal Procedure (Scotland) Act 1995, or
- (f) detained under Part 3 of the Mental Health (Northern Ireland) Order 1986 or by virtue of an order under section 11 or 13(5A) of the Criminal Appeal (Northern Ireland) Act 1980;

“human rights claim” means a claim that to remove the claimant from, or to require the claimant to leave, the United Kingdom would be unlawful under section 6 of the Human Rights Act 1998 (public authority not to act contrary to Convention) as being incompatible with the person’s Convention rights;

“the Refugee Convention” means the Convention relating to the Status of Refugees done at Geneva on 28 July 1951 and the Protocol to the Convention;

“serious harm” has the meaning given by article 15 of Council Directive [2004/83/EC](#) on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted;

and a reference to having leave to enter or remain in the United Kingdom is to be construed in accordance with the Immigration Act 1971.

- (4) This section applies in relation to any offence under this Part (whether committed before or after the coming into force of this section).”

## **71 Slavery, servitude and forced or compulsory labour**

- (1) A person (D) commits an offence if—
  - (a) D holds another person in slavery or servitude and the circumstances are such that D knows or ought to know that the person is so held, or
  - (b) D requires another person to perform forced or compulsory labour and the circumstances are such that D knows or ought to know that the person is being required to perform such labour.
- (2) In subsection (1) the references to holding a person in slavery or servitude or requiring a person to perform forced or compulsory labour are to be construed in accordance with Article 4 of the Human Rights Convention (which prohibits a person from being held in slavery or servitude or being required to perform forced or compulsory labour).
- (3) A person guilty of an offence under this section is liable—
  - (a) on summary conviction, to imprisonment for a term not exceeding the relevant period or a fine not exceeding the statutory maximum, or both;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding 14 years or a fine, or both.
- (4) In this section—

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“Human Rights Convention” means the Convention for the Protection of Human Rights and Fundamental Freedoms agreed by the Council of Europe at Rome on 4 November 1950;

“the relevant period” means—

- (a) in relation to England and Wales, 12 months;
- (b) in relation to Northern Ireland, 6 months.

## 72 Conspiracy

(1) In section 1A of the [Criminal Law Act 1977 \(c. 45\)](#) (conspiracy to commit offences outside the United Kingdom)—

- (a) in the title and in subsection (2), for “the United Kingdom” substitute “England and Wales”, and
- (b) for subsection (14) substitute—

“(14) Nothing in this section applies to an agreement entered into before 4 September 1998.

(15) In relation to an agreement entered into during the period beginning with that date and ending with the commencement of section 72(1) of the Coroners and Justice Act 2009, this section applies as if in subsection (2) for “England and Wales” there were substituted “the United Kingdom”.

(16) Nothing in this section imposes criminal liability on any person acting on behalf of, or holding office under, the Crown.”

(2) In Article 9A of the Criminal Attempts and Conspiracy (Northern Ireland) Order 1983 ([S.I. 1983/1120 \(N.I. 13\)](#)) (conspiracy to commit offences outside the United Kingdom)—

- (a) in the title and in paragraph (2), for “the United Kingdom” substitute “Northern Ireland”, and
- (b) for paragraph (14) substitute—

“(14) Nothing in this Article applies to an agreement entered into before 4 September 1998.

(15) In relation to an agreement entered into during the period beginning with that date and ending with the commencement of section 72(2) of the Coroners and Justice Act 2009, this Article applies as if in paragraph (2) for “Northern Ireland” there were substituted “the United Kingdom”.

(16) Nothing in this Article imposes criminal liability on any person acting on behalf of, or holding office under, the Crown.”

## 73 Abolition of common law libel offences etc

The following offences under the common law of England and Wales and the common law of Northern Ireland are abolished—

- (a) the offences of sedition and seditious libel;
- (b) the offence of defamatory libel;
- (c) the offence of obscene libel.