



Policing and Crime Act 2009

2009 CHAPTER 26

PART 2

SEXUAL OFFENCES AND SEX ESTABLISHMENTS

Prostitution

14 **Paying for sexual services of a prostitute subjected to force etc: England and Wales**

After section 53 of the [Sexual Offences Act 2003 \(c. 42\)](#) insert—

“53A Paying for sexual services of a prostitute subjected to force etc.

- (1) A person (A) commits an offence if—
- (a) A makes or promises payment for the sexual services of a prostitute (B),
 - (b) a third person (C) has engaged in exploitative conduct of a kind likely to induce or encourage B to provide the sexual services for which A has made or promised payment, and
 - (c) C engaged in that conduct for or in the expectation of gain for C or another person (apart from A or B).
- (2) The following are irrelevant—
- (a) where in the world the sexual services are to be provided and whether those services are provided,
 - (b) whether A is, or ought to be, aware that C has engaged in exploitative conduct.
- (3) C engages in exploitative conduct if—
- (a) C uses force, threats (whether or not relating to violence) or any other form of coercion, or
 - (b) C practises any form of deception.

Status: This is the original version (as it was originally enacted).

- (4) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.”

15 **Paying for sexual services of a prostitute subjected to force etc: Northern Ireland**

After Article 64 of the Sexual Offences (Northern Ireland) Order 2008 (S.I. 1769 (N.I. 2)) insert—

“64A Paying for sexual services of a prostitute subjected to force etc.

- (1) A person (A) commits an offence if—
- (a) A makes or promises payment for the sexual services of a prostitute (B),
 - (b) a third person (C) has engaged in exploitative conduct of a kind likely to induce or encourage B to provide the sexual services for which A has made or promised payment, and
 - (c) C engaged in that conduct for or in the expectation of gain for C or another person (apart from A or B).
- (2) The following are irrelevant—
- (a) where in the world the sexual services are to be provided and whether those services are provided,
 - (b) whether A is, or ought to be, aware that C has engaged in exploitative conduct.
- (3) C engages in exploitative conduct if—
- (a) C uses force, threats (whether or not relating to violence) or any other form of coercion, or
 - (b) C practises any form of deception.
- (4) A person guilty of an offence under this Article shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.”

16 **Amendment to offence of loitering etc for purposes of prostitution**

- (1) The [Street Offences Act 1959 \(c. 57\)](#) is amended as follows.
- (2) In subsection (1) of section 1 (loitering or soliciting for purposes of prostitution)—
- (a) for “common prostitute” substitute “person”, and
 - (b) after “female)” insert “persistently”.
- (3) In subsection (4) of that section after “section” insert “—
- (a) conduct is persistent if it takes place on two or more occasions in any period of three months;
 - (b) any reference to a person loitering or soliciting for the purposes of prostitution is a reference to a person loitering or soliciting for the purposes of offering services as a prostitute;
 - (c)”.
- (4) Omit section 2 (application to court by person cautioned for loitering or soliciting).

- (5) In determining for the purposes of section 1 of the [Street Offences Act 1959 \(c. 57\)](#) (as amended by this section) whether a person’s conduct is persistent, any conduct that takes place before the commencement of this section is to be disregarded.

17 Orders requiring attendance at meetings

- (1) The [Street Offences Act 1959](#) is amended as follows.
- (2) In section 1 (loitering or soliciting for purposes of prostitution) after subsection (2) insert—
- “(2A) The court may deal with a person convicted of an offence under this section by making an order requiring the offender to attend three meetings with the person for the time being specified in the order (“the supervisor”) or with such other person as the supervisor may direct.
- (2B) The purpose of an order under subsection (2A) is to assist the offender, through attendance at those meetings, to—
- (a) address the causes of the conduct constituting the offence, and
- (b) find ways to cease engaging in such conduct in the future.
- (2C) Where the court is dealing with an offender who is already subject to an order under subsection (2A), the court may not make a further order under that subsection unless it first revokes the existing order.
- (2D) If the court makes an order under subsection (2A) it may not impose any other penalty in respect of the offence.”
- (3) After section 1 insert—

“1A Orders under section 1(2A): supplementary

- (1) This section applies to an order under section 1(2A).
- (2) The order may not be made unless a suitable person has agreed to act as supervisor in relation to the offender.
- (3) In subsection (2) “suitable person” means a person appearing to the court to have appropriate qualifications or experience for helping the offender to make the best use of the meetings for the purpose mentioned in section 1(2B).
- (4) The order must specify—
- (a) a date (not more than six months after the date of the order) by which the meetings required by the order must take place;
- (b) the local justice area in which the offender resides or will reside while the order is in force.
- (5) The supervisor must determine—
- (a) the times of the meetings required by the order and their duration, and
- (b) the places at which they are held.
- (6) The supervisor must—
- (a) make any arrangements that are necessary to enable the meetings required by the order to take place; and

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

- (b) once the order has been complied with, notify the court which made the order of that fact.
- (7) The court making the order must provide copies of it to the offender and the supervisor.
- (8) Subsection (9) applies where—
 - (a) the order is made by the Crown Court, or
 - (b) the order is made by a magistrates’ court but specifies a local justice area for which the court making the order does not act.
- (9) The court must provide to a magistrates’ court acting for the local justice area specified in the order—
 - (a) a copy of the order, and
 - (b) any documents and information relating to the case that it considers likely to be of assistance to that court in the exercise of any functions in relation to the order.
- (10) The order ceases to be in force (unless revoked earlier under section 1(2C) or under the Schedule to this Act)—
 - (a) at the end of the day on which the supervisor notifies the court that the order has been complied with, or
 - (b) at the end of the day specified in the order under subsection (4)(a), whichever first occurs.
- (11) The Schedule to this Act (which relates to failure to comply with orders under section 1(2A) and to the revocation or amendment of such orders) has effect.”
- (4) At the end of the Act insert the Schedule set out in Schedule 1 to this Act.

18 Rehabilitation of offenders: orders under section 1(2A) of the Street Offences Act 1959

- (1) The [Rehabilitation of Offenders Act 1974 \(c. 53\)](#) is amended as follows.
- (2) In section 5 (rehabilitation periods for particular sentences) after subsection (4C) insert—
 - “(4D) The rehabilitation period applicable to an order under section 1(2A) of the Street Offences Act 1959 shall be six months from the date of conviction for the offence in respect of which the order is made.”
- (3) In section 6 of that Act (the rehabilitation period applicable to a conviction) after subsection (3) insert—
 - “(3A) Without prejudice to subsection (2), where—
 - (a) an order is made under section 1(2A) of the Street Offences Act 1959 in respect of a conviction,
 - (b) after the end of the rehabilitation period applicable to the conviction the offender is dealt with again for the offence for which that order was made, and
 - (c) the rehabilitation period applicable to the conviction in accordance with subsection (2) (taking into account any sentence imposed when

so dealing with the offender) ends later than the rehabilitation period previously applicable to the conviction,
the offender shall be treated for the purposes of this Act as not having become a rehabilitated person in respect of that conviction, and that conviction shall for those purposes be treated as not having become spent, in relation to any period falling before the end of the new rehabilitation period.”

19 **Soliciting: England and Wales**

Before section 52 of [Sexual Offences Act 2003 \(c. 42\)](#) (but after the italic heading, which becomes “Prostitution”) insert—

“51A Soliciting

- (1) It is an offence for a person in a street or public place to solicit another (B) for the purpose of obtaining B’s sexual services as a prostitute.
- (2) The reference to a person in a street or public place includes a person in a vehicle in a street or public place.
- (3) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (4) In this section “street” has the meaning given by section 1(4) of the Street Offences Act 1959.”

20 **Soliciting: Northern Ireland**

For Articles 60 and 61 of the Sexual Offences (Northern Ireland) Order 2008 ([S.I. 1769 \(N.I. 2\)](#)) (kerb-crawling and persistent soliciting) substitute—

“60 Soliciting

- (1) It is an offence for a person in a street or public place to solicit another (B) for the purpose of obtaining B’s sexual services as a prostitute.
- (2) The reference to a person in a street or public place includes a person in a vehicle in a street or public place.
- (3) A person guilty of an offence under this Article shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.”

Closure orders: sexual offences

21 **Closure orders**

- (1) Schedule 2 (which amends the [Sexual Offences Act 2003](#) to make provision about closure orders for premises used for activities related to certain sexual offences) has effect.
- (2) For the purposes of sections 136B(3) and (4) and 136D(6) and (7) of the 2003 Act (as inserted by Schedule 2), it does not matter whether the offence or offences were committed before, or on or after, the date on which this section is commenced.

Orders imposed on sex offenders

22 Time limits

- (1) The [Sexual Offences Act 2003 \(c. 42\)](#) is amended as follows.
- (2) After section 132 insert—

“132A Disapplication of time limit for complaints

Section 127 of the Magistrates’ Courts Act 1980 (time limits) does not apply to a complaint under any provision of this Part.”

- (3) In section 136 (modifications for Northern Ireland) after subsection (4) insert—

“(4A) In section 132A the reference to section 127 of the Magistrates’ Courts Act 1980 is to be read as a reference to Article 78 of the Magistrates’ Courts (Northern Ireland) Order 1981.”
- (4) The amendments made by this section apply to a complaint made after the commencement of this section even if the matter of complaint arose more than 6 months before the making of the complaint.

23 Foreign travel orders: grounds

- (1) In the following provisions of the [Sexual Offences Act 2003](#) for “under 16”, wherever occurring, substitute “under 18”—
 - (a) section 115(2) (definition of “protecting children generally or any child from serious sexual harm from the defendant outside the United Kingdom”), and
 - (b) section 116(2)(b), (c)(ii) and (iii) and (d) (“qualifying offenders”: offences).
- (2) The amendments made by this section apply for the purposes of the making, variation, renewal or discharge of orders after the commencement of this section.

24 Foreign travel orders: duration

- (1) In section 117(1) of the [Sexual Offences Act 2003](#) (foreign travel orders: effect) for “6 months” substitute “5 years”.
- (2) The amendment made by this section applies in relation to orders made, varied or renewed after the commencement of this section.

25 Foreign travel orders: surrender of passports

- (1) The [Sexual Offences Act 2003](#) is amended as follows.
- (2) After section 117 insert—

“117A Foreign travel orders: surrender of passports

- (1) This section applies in relation to a foreign travel order which contains a prohibition within section 117(2)(c).

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

- (2) The order must require the defendant to surrender all of the defendant's passports, at a police station specified in the order—
 - (a) on or before the date when the prohibition takes effect, or
 - (b) within a period specified in the order.
 - (3) Any passports surrendered must be returned as soon as reasonably practicable after the person ceases to be subject to a foreign travel order containing a prohibition within section 117(2)(c).
 - (4) Subsection (3) does not apply in relation to—
 - (a) a passport issued by or on behalf of the authorities of a country outside the United Kingdom if the passport has been returned to those authorities;
 - (b) a passport issued by or on behalf of an international organisation if the passport has been returned to that organisation.
 - (5) In this section “passport” means—
 - (a) a United Kingdom passport within the meaning of the Immigration Act 1971;
 - (b) a passport issued by or on behalf of the authorities of a country outside the United Kingdom, or by or on behalf of an international organisation;
 - (c) a document that can be used (in some or all circumstances) instead of a passport.”
- (3) In section 122 (breach of foreign travel order) after subsection (1) insert—
- “(1A) A person commits an offence if, without reasonable excuse, the person fails to comply with a requirement under section 117A(2).”
- (4) The amendment made by subsection (2) applies in relation to orders made, varied or renewed after the commencement of this section.

Indecent photographs of children

26 Penalty for contravening notice relating to encrypted information

- (1) Section 53 of the [Regulation of Investigatory Powers Act 2000 \(c. 23\)](#) (failure to comply with notice relating to encrypted information) is amended as follows.
- (2) In subsection (5A)(a) after “case” insert “or a child indecency case”.
- (3) After subsection (5B) insert—
 - (6) In subsection (5A) “a child indecency case” means a case in which the grounds specified in the notice to which the offence relates as the grounds for imposing a disclosure requirement were or included a belief that the imposition of the requirement was necessary for the purpose of preventing or detecting an offence under any of the provisions listed in subsection (7).
 - (7) Those provisions are—
 - (a) section 1 of the Protection of Children Act 1978 (showing or taking etc an indecent photograph of a child: England and Wales);

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

- (b) Article 3 of the Protection of Children (Northern Ireland) Order 1978 (S.I. 1978/1047 (N.I. 17)) (corresponding offence for Northern Ireland);
 - (c) section 52 or 52A of the Civic Government (Scotland) Act 1982 (showing or taking etc or possessing an indecent photograph of a child: Scotland);
 - (d) section 160 of the Criminal Justice Act 1988 (possessing an indecent photograph of a child: England and Wales);
 - (e) Article 15 of the Criminal Justice (Evidence, Etc.) (Northern Ireland) Order 1988 (S.I. 1988/1847 (N.I. 17)) (corresponding offence for Northern Ireland).”
- (4) The amendments made by this section apply in relation to cases in which the section 49 notice was given after the commencement of this section.

Sex establishments

27 Regulation of lap dancing and other sexual entertainment venues etc

- (1) Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 (c. 30) (control of sex establishments) is amended as follows.
- (2) In paragraph 2 (meaning of “sex establishment”) after “means a” insert “sexual entertainment venue,”.
- (3) After paragraph 2 insert—

“Meaning of “sexual entertainment venue”

- 2A (1) In this Schedule “sexual entertainment venue” means any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer.
- (2) In this paragraph “relevant entertainment” means—
- (a) any live performance; or
 - (b) any live display of nudity;
- which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means).
- (3) The following are not sexual entertainment venues for the purposes of this Schedule—
- (a) sex cinemas and sex shops;
 - (b) premises at which the provision of relevant entertainment as mentioned in sub-paragraph (1) is such that, at the time in question and including any relevant entertainment which is being so provided at that time—
 - (i) there have not been more than eleven occasions on which relevant entertainment has been so provided which fall (wholly or partly) within the period of 12 months ending with that time;

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

- (ii) no such occasion has lasted for more than 24 hours; and
 - (iii) no such occasion has begun within the period of one month beginning with the end of any previous occasion on which relevant entertainment has been so provided (whether or not that previous occasion falls within the 12 month period mentioned in sub-paragraph (i));
 - (c) premises specified or described in an order made by the relevant national authority.
- (4) The relevant national authority may by order amend or repeal sub-paragraph (3)(b).
- (5) But no order under sub-paragraph (4) may—
- (a) increase the number or length of occasions in any period on which sub-paragraph (3)(b) as originally enacted would permit relevant entertainment to be provided; or
 - (b) provide for shorter intervals between such occasions.
- (6) The relevant national authority may by order provide for descriptions of performances, or of displays of nudity, which are not to be treated as relevant entertainment for the purposes of this Schedule.
- (7) Any power of the relevant national authority to make an order under this paragraph—
- (a) is exercisable by statutory instrument;
 - (b) may be exercised so as to make different provision for different cases or descriptions of case or for different purposes; and
 - (c) includes power to make supplementary, incidental, consequential, transitional, transitory or saving provision.
- (8) A statutory instrument containing an order under sub-paragraph (4) may not be made by the Secretary of State unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (9) A statutory instrument containing an order made under sub-paragraph (3) (c) or (6) by the Secretary of State is subject to annulment in pursuance of a resolution of either House of Parliament.
- (10) A statutory instrument containing an order under sub-paragraph (4) may not be made by the Welsh Ministers unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.
- (11) A statutory instrument containing an order made under sub-paragraph (3) (c) or (6) by the Welsh Ministers is subject to annulment in pursuance of a resolution of the National Assembly for Wales.
- (12) For the purposes of this paragraph relevant entertainment is provided if, and only if, it is provided, or permitted to be provided, by or on behalf of the organiser.
- (13) For the purposes of this Schedule references to the use of any premises as a sexual entertainment venue are to be read as references to their use by the organiser.

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

(14) In this paragraph—

“audience” includes an audience of one;

“display of nudity” means—

- (a) in the case of a woman, exposure of her nipples, pubic area, genitals or anus; and
- (b) in the case of a man, exposure of his pubic area, genitals or anus;

“the organiser”, in relation to the provision of relevant entertainment at premises, means any person who is responsible for the organisation or management of—

- (a) the relevant entertainment; or
- (b) the premises;

“premises” includes any vessel, vehicle or stall but does not include any private dwelling to which the public is not admitted;

“relevant national authority” means—

- (a) in relation to England, the Secretary of State; and
- (b) in relation to Wales, the Welsh Ministers;

and for the purposes of sub-paragraphs (1) and (2) it does not matter whether the financial gain arises directly or indirectly from the performance or display of nudity.”

(4) In paragraph 9(1) (duration of licence) after “paragraph 16” insert “or 27A below”.

(5) In paragraph 12(3) (refusal of licences) for paragraph (c) substitute—

“(c) that the number of sex establishments, or of sex establishments of a particular kind, in the relevant locality at the time the application is determined is equal to or exceeds the number which the authority consider is appropriate for that locality;”.

(6) In paragraph 13 (power to prescribe standard conditions)—

- (a) in sub-paragraph (2)(a) after “for” insert “sexual entertainment venues,”,
- (b) in sub-paragraph (2)(b) after “of” insert “sexual entertainment venues,” and
- (c) in sub-paragraph (3) for paragraph (d) (as originally enacted) substitute—
 - “(d) any change from one kind of sex establishment mentioned in sub-paragraph (2)(a) above to another kind of sex establishment so mentioned.”

(7) In paragraph 19 (fees in relation to applications) after “grant,” insert “variation,”.

(8) After paragraph 25 (powers of constables and local authority officers) insert—

“25A (1) A person acting under the authority of a warrant under paragraph 25(4) may seize and remove anything found on the premises concerned that the person reasonably believes could be forfeited under sub-paragraph (4).

(2) The person who, immediately before the seizure, had custody or control of anything seized under sub-paragraph (1) may request any authorised officer of a local authority who seized it to provide a record of what was seized.

(3) The authorised officer must provide the record within a reasonable time of the request being made.

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

- (4) The court by or before which a person is convicted of an offence under paragraph 20 or 23 of this Schedule may order anything—
- (a) produced to the court; and
 - (b) shown to the satisfaction of the court to relate to the offence;
- to be forfeited and dealt with in such manner as the court may order.
- (5) But the court may not order the forfeiture of anything under sub-paragraph (4) if it (whether alone or taken together with other things being forfeited which appear to the court to have been in the custody or control of the same person) is worth more than the amount of the maximum fine specified in paragraph 22(1).
- (6) Sub-paragraph (7) applies if a person claiming to be the owner of, or otherwise interested in, anything that may be forfeited applies to be heard by the court.
- (7) The court may not order the forfeiture unless the person has had an opportunity to show why the order should not be made.”
- (9) After paragraph 27(10) (appeals) insert—
- “(10A) Sub-paragraph (10) does not apply if the grounds for refusing an application for the renewal of a licence are those set out in paragraph 12(3) (c) or (d) of this Schedule.”
- (10) After paragraph 27 (appeals) insert—
- “Premises which are deemed sexual entertainment venues*
- 27A (1) This paragraph applies if—
- (a) premises are subject to a licence for a sexual entertainment venue; and
 - (b) their use would be use as such a venue but for the operation of paragraph 2A(3)(b).
- (2) This Schedule applies as if—
- (a) the premises were a sexual entertainment venue; and
 - (b) the use or business of the premises was use as, or the business of, such a venue.
- (3) But the appropriate authority must cancel the licence if the holder of the licence asks them in writing to do so.
- (4) In this paragraph “premises” has the same meaning as in paragraph 2A.”
- (11) Schedule 3 (provisions which are transitional on this section) has effect.