



Sexual Offences Act 1956

1956 CHAPTER 69

PART I

OFFENCES, AND THE PROSECUTION AND PUNISHMENT OF OFFENCES

Powers and procedure for dealing with offenders

37 Prosecution and punishment of offences

- (1) The Second Schedule to this Act shall have effect, subject to and in accordance with the following provisions of this section, with respect to the prosecution and punishment of the offences listed in the first column of the Schedule, being the offences under this Act and attempts to commit certain of those offences.
- (2) The second column in the Schedule shows, for any offence, if it may be prosecuted on indictment or summarily, or either, if an indictment is not triable by a court of quarter sessions and what special restrictions (if any) there are on the commencement of a prosecution.
- (3) The third column in the Schedule shows, for any offence, the punishments which may be imposed on conviction on indictment or on summary conviction, a reference to a period giving the maximum term of imprisonment and a reference to a sum of money the maximum fine.
- (4) The fourth column in the Schedule contains provisions which are either supplementary to those in the second or third column or enable a person charged on indictment with the offence specified in the first column to be found guilty of another offence if the jury are not satisfied that he is guilty of the offence charged or of an attempt to commit it, but are satisfied that he is guilty of the other offence.
- (5) A provision in the fourth column of the Schedule enabling the jury to find the accused guilty of an offence specified in that provision authorises them, if not satisfied that he is guilty of the offence so specified, to find him guilty of any other offence of which they could find him guilty if he had been indicted for the offence so specified.

Status: This is the original version (as it was originally enacted).

- (6) Where in the Schedule there is used a phrase descriptive of an offence or group of offences followed by a reference to a section by its number only, the reference is to a section of this Act, and the phrase shall be taken as referring to any offence under the section mentioned.
- (7) Nothing in this section or in the Second Schedule to this Act shall exclude the application to any of the offences referred to in the first column of the Schedule—
- (a) of section twenty or twenty-one of the Magistrates Courts Act, 1952 (which relate to the summary trial of young offenders for indictable offences); or
 - (b) of subsection (5) of section ninety-eight of that Act (which limits the punishment which may be imposed by a magistrates' court sitting in an occasional courthouse) ; or
 - (c) of any enactment or rule of law restricting a court's power to imprison ; or
 - (d) of any enactment or rule of law authorising an offender to be dealt with in a way not authorised by the enactments specially relating to his offence ; or
 - (e) of any enactment or rule of law authorising a jury to find a person guilty of an offence other than that with which he is charged.

38 Powers of court in case of incest with girl under twenty-one

- (1) On a man's conviction of an offence under section ten of this Act against a girl under the age of twenty-one, or of attempting to commit such an offence, the court may by order divest him of all authority over her.
- (2) An order divesting a man of authority over a girl under the foregoing subsection may, if he is her guardian, remove him from the guardianship.
- (3) An order under this section may appoint a person to be the girl's guardian during her minority or any less period.
- (4) An order under this section may be varied from time to time or rescinded by the High Court.

39 Evidence of wife or husband of accused

- (1) Where this section applies, the wife or husband of the accused shall be competent to give evidence at every stage of the proceedings, whether for the defence or for the prosecution, and whether the accused is charged solely or jointly with any other person:

Provided that—

- (a) the wife or husband shall not be compellable either to give evidence or, in giving evidence, to disclose any communication made to her or him during the marriage by the accused ; and
 - (b) the failure of the wife or husband of the accused to give evidence shall not be made the subject of any comment by the prosecution.
- (2) Subject to the following subsection, this section applies on a charge of any offence under this Act, except in so far as it is excluded in the case of section twelve (buggery), section fifteen (indecent assault on a man) and section sixteen (assault with intent to commit buggery).

- (3) This section shall not affect section one of the Criminal Evidence Act, 1898, or any case where the wife or husband of the accused may at common law be called as a witness without the consent of the accused.