

FALSELY ACCUSED

DEFINITIONS OF SEXUAL OFFENCES UNDER THE 1956 ACT

Offences in England and Wales

Consent to sexual relationships

Heterosexual relationships

The age of consent to heterosexual intercourse is 16 in England, Wales, Scotland and the Channel Islands. In Northern Ireland it is 17.

A young woman does not commit a criminal offence if she has sex under the age of 16 (17 in Northern Ireland). However, various offences are committed by men or boys who have sex with a young woman under the age of 16 (17 in Northern Ireland) even if it is with her agreement.

In England and Wales, it is an offence for a man, or a boy aged 10 or over, to have sexual intercourse with a young woman aged 13, 14 or 15. However, in his defence he may claim that he believes himself to be validly married to the young woman (even if this is not the case). Or if he is 23 or under at the time of the offence and he has not previously been charged with an offence of this kind, he may claim that he believes the young woman to be 16 or over. The maximum penalty is two years' imprisonment.

It is an absolute offence for a man, or a boy aged 10 or over, to have intercourse with a girl aged 12 or under. This means there can be no defence in such a case. The maximum penalty is life imprisonment.

In Scotland, the same offences and penalties apply, but they can be committed by men and boys of all ages.

In Jersey, it is an offence for a man, or a boy aged over 10, to have sexual intercourse with a young woman aged 13, 14 or 15. It is a defence that at the time of the offence he believed the young woman to be over 16. The maximum penalty is five years' imprisonment.

If a man, or a boy aged 10 or over, has sexual intercourse with a girl aged 12 or under, the same offences and penalties apply as in England and Wales.

In Northern Ireland, it is an offence for a man, or a boy aged 14 or over, to have intercourse with a young woman aged 14, 15 or 16. There is no defence that the man believed her to be 17 or over, whatever her age. The maximum penalty is two years' imprisonment.

It is an absolute offence for a man to have intercourse with a girl aged 13 or under. The maximum penalty is life imprisonment.

In all parts of the UK, in practice, prosecutions are rare where the girl is 13-15 and there is no evidence that she was forced or persuaded to have sex.

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The legislation on the age of consent does not specifically refer to women having sexual intercourse with a young man under the age of 16. However, she could be charged with indecent assault.

Homosexual relationships

The Sexual Offences (Amendment) Act 2000 legalised consensual homosexual acts between men provided that they are both 16 or over in England, Wales and Scotland (17 or over in Northern Ireland) and the act takes place in private.

In Jersey, homosexuality is legal provided both men are over 18 and sexual intercourse takes place in private.

The only offence concerned with lesbianism is that of indecent assault. Therefore, provided both women consent and neither is under the age of consent, acts of lesbianism are legal.

RAPE OF WOMAN OR MAN

Section 1 of the Sexual Offences Act 1956

(1) It is an offence for a man to rape a woman or another man

(2) A man commits rape if –

(a) To he has sexual intercourse with a person (whether vaginal or anal) who at the time of the intercourse does not consent to it; and

(b) at the time he knows that the person does not consent to the intercourse or he is reckless as to whether that person consents to it.

(3) A man also commits rape if he induces a married woman to have sexual intercourse with him by impersonating her husband.

Mode of prosecution: On Indictment

Maximum punishment: Life Imprisonment

PROCUREMENT OF A WOMAN BY THREATS

Section 2 of the Sexual Offences Act 1956

(1) It is an offence for a person to procure a woman, by threats or intimidation, to have sexual intercourse in any part of the world.

Mode of prosecution: On Indictment

Maximum punishment: Two Years Imprisonment

PROCUREMENT OF A WOMAN BY FALSE PRETENCES

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Section 3 of the Sexual Offences Act 1956

(1) It is an offence for a person to procure a woman, by false pretences or false representations, to have sexual intercourse in any part of the world.

Mode of prosecution: On Indictment

Maximum punishment: Two Years Imprisonment

ADMINISTERING DRUGS TO OBTAIN OR FACILITATE INTERCOURSE

Section 4 of the Sexual Offences Act 1956

(1) It is an offence for a person to apply or administer to, or cause to be taken by, a woman any drug, matter or thing with intent to stupefy or overpower her so as thereby to enable any man to have unlawful sexual intercourse with her.

Mode of prosecution: On Indictment

Maximum punishment: Two Years Imprisonment

INTERCOURSE WITH A DEFECTIVE

Section 7 of the Sexual Offences Act 1956

(1) It is an offence, subject to the exception mentioned in this section, for a man to have unlawful sexual intercourse with a woman who is a defective.

(2) A man is not guilty of an offence under this section because he has unlawful sexual intercourse with a woman if he does not know and has no reason to suspect her to be defective.

Mode of prosecution: On Indictment

Maximum punishment: Two Years Imprisonment

SEXUAL INTERCOURSE WITH PATIENTS

Section 128 of the Mental Health Act 1959

(1) Without prejudice to section 7 of the Sexual Offences Act 1956, it shall be an offence, subject to the exception mentioned in this section, -

(a) for a man who is an officer on the staff of or is otherwise employed in, or is one of the managers of, a hospital or mental nursing home to have unlawful sexual intercourse with a woman who is for the time being receiving treatment for mental disorder in that hospital or home, or to have such intercourse on the premises of which the hospital or home forms part with a woman who is for the time being receiving such treatment there as an out-patient;

(b) for a man to have unlawful sexual intercourse with a woman who is a mentally disordered patient and who is subject to his guardianship under the Mental Health Act 1983 or is otherwise in his custody or care under the Mental Health Act 1983 or in pursuance of arrangements under III of the National Assistance Act 1948, or the National Health Service Act 1977 or as a resident in a residential care home within the meaning of part 1 of the Registered Homes Act 1984.

(2) It shall not be an offence under this section for a man to have sexual intercourse with a

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woman if he does not know and has no reason to suspect her to be a mentally disordered patient.

Mode of prosecution: On Indictment
Maximum punishment: Two Years Imprisonment

Section 1 of the Sexual Offences Act 1967

(4) Section 128 of the Mental Health Act 1959...shall have effect as if any reference therein to having unlawful sexual intercourse with a woman included a reference to committing buggery or an act of gross indecency with another man.

INTERCOURSE WITH A GIRL UNDER THE AGE OF 13

Section 5 of the Sexual Offences Act 1956

It is a felony for a man to have unlawful sexual intercourse with a girl under the age of 13.

Mode of prosecution: On Indictment
Maximum punishment: Life Imprisonment

INTERCOURSE WITH A GIRL UNDER THE AGE OF 16

Section 6 of the Sexual Offences Act 1956

(1) It is an offence subject to the exceptions mentioned in this section, for a man to have unlawful sexual intercourse with a girl under the age of 16.
(2) Where marriage is invalid under section 2 Marriage Act 1949, or section 1 Age of Marriage Act 1929 (the wife being a girl under the age of 16) the invalidity does not make the husband guilty of an offence under this section because he has sexual intercourse with her, if he believes her to be his wife and has reasonable cause for the belief. (3) A man is not guilty of an offence under this section because he has unlawful sexual intercourse with a the girl under the age of 16, if he is under the age of 24 years and has not previously been charged with a like offence, and he believes her to be of the age of 16 or over and has reasonable cause for the belief.

Mode of prosecution: Triable either way (prosecution within 12 month of the offence charged)
Maximum punishment: Two Years Imprisonment

INCEST BY A MAN

Section 10 of the Sexual Offences Act 1956

(1) It is an offence for a man to have sexual intercourse with a woman he knows to be his granddaughter, daughter, sister or mother.
(2) In the foregoing subsection "sister" includes half sister, and for the purpose of that

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subsection any expression importing a relationship between two people shall be taken to apply notwithstanding that the relationship is not traced through lawful wedlock.

Mode of prosecution: On Indictment (consent of the DPP required)

Maximum punishment: Seven Years Imprisonment or Life Imprisonment if with a girl under 13 years of age.

INCEST BY A WOMAN

Section 11 of the Sexual Offences Act 1956

(1) It is an offence for a woman of the age of 16 or over to permit a man who she knows to be her grandfather, father, brother or son to have sexual intercourse with her by her consent.

(2) In the foregoing subsection "brother" includes half brother, and for the purposes of that subsection any expression importing a relationship between two people shall be taken to apply notwithstanding that the relationship is not traced through lawful wedlock.

Mode of prosecution: On Indictment (consent of the DPP required)

Maximum punishment: Seven Years Imprisonment

INCITING A GIRL UNDER 16 TO HAVE INCESTUOUS SEXUAL INTERCOURSE

Section 54 of the Criminal Law Act 1977

(1) It is an offence for a man to incite to have sexual intercourse with him a girl under the age of 16 whom he knows to be his granddaughter, daughter or sister.

(2) In the preceding subsection "man" includes boy, "sister" includes half sister, and for the purposes of that subsection any expression importing a relationship between two people shall be taken to apply notwithstanding that the relationship is not traced through lawful wedlock.

Mode of prosecution: Triable either way

Maximum punishment: Two Years Imprisonment on indictment

BUGGERY

Section 12 of the Sexual Offences Act 1956

(1) It is felony for a person to commit buggery with another person otherwise than in circumstances described in subsection 1A below or with an animal.

(1A) The circumstances referred to in subsection (1) are that the act of buggery takes place in private and both parties have attained the age of eighteen.

(1B) An act of buggery by one man with another shall not be treated as taking place in private if it takes place -

(a) When more than two people take part or are present; or

(b) In a lavatory to which the public have or are permitted to have access, whether on payment or otherwise.

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(1C) In any proceedings against a person for buggery with another person it shall be for the prosecutor to prove that the act of buggery took place otherwise than in private or that one of the parties to it had not attained the age of eighteen.

Mode of prosecution: On indictment

Maximum punishment: Life Imprisonment if with the person under the age of 16 years or with an animal; 5 years imprisonment if the defendant is aged 21 or over and the other person is aged under 18; 2 years imprisonment in all other cases.

ASSAULT WITH INTENT TO COMMIT BUGGERY

Section 16 of the Sexual Offences Act 1956

It is an offence for a person to assault another person with intent to commit buggery.

Mode of prosecution: On indictment

Maximum punishment: Ten Years Imprisonment on indictment

GROSS INDECENCY BETWEEN MEN

Section 13 of the Sexual Offences Act 1956

It is an offence for a man to commit an act of gross indecency with another man whether in public or private, or to be a party to the commission by a man of an act of gross indecency with another man, or procure to commission by a man of an act of gross indecency with another man.

Mode of prosecution: On indictment

Maximum punishment: Five Years Imprisonment where the defendant is aged 21 or over and the other person is under 18; 2 year's imprisonment in all over cases

INDECENT ASSAULT ON A WOMAN

Section 14 of the Sexual Offences Act 1956

(1) It is an offence, subject to the exception mentioned in subsection (3) of this section, for a person to make an indecent assault a woman.

(2) A girl under the age of 16 cannot in law give any consent which would prevent an act being an assault for the purpose of this section.

(3) Where marriage is invalid under section two of the Marriage Act 1949, or section 1 of the Age of Marriage Act 1929 (the wife being a girl under the age of sixteen), the invalidity does not make the husband guilty of any offence under this section by reason of her incapacity to consent while under that age, if he believes her to be his wife and he has reasonable cause for the belief.

(4) A woman who is defective cannot in law give any consent which would prevent an act being an assault for the purposes of this section, but a person is only to be treated as guilty of an indecent assault on a defective by reason of that incapacity to consent, if that person knew or had reason to suspect her to be a defective.

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Mode of prosecution: Triable either way
Maximum punishment: Ten Years Imprisonment

INDECENT ASSAULT ON A MAN

Section 15 of the Sexual Offences Act 1956

- (1) It is an offence for a person to make an indecent assault on a man.
- (2) A boy under the age of 16 cannot in law give any consent which would prevent an act being an assault for the purposes of this section.
- (3) A man who is defective cannot in law give any consent which would prevent an act being an assault for the purposes of this section, but a person is only to be treated as guilty of an indecent assault on a defective by reason of that incapacity to consent, if that person knew or had reason to suspect her to be a defective.

Mode of prosecution: Triable either way
Maximum punishment: Ten Years Imprisonment

ABDUCTION OF A WOMAN BY FORCE OR FOR THE SAKE OF HER PROPERTY

Section 17 of the Sexual Offences Act 1956

- (1) It is a felony for a person to take away or detain a woman against her will with the intention that she shall marry or have unlawful sexual intercourse with that or any other person, if she is so taken away or detained either by force or for the sake of her property or expect or expectations of property.
- (2) In the foregoing subsection, the reference to a woman's expectations of property relates only of a person to whom she is next of kin or one of the next of kin, and "property" includes any interest in property.

Mode of prosecution: On indictment
Maximum punishment: Fourteen Years Imprisonment

ABDUCTION OF AN UNMARRIED GIRL UNDER THE AGE OF 18 FROM HER PARENT OR GUARDIAN

Section 19 of the Sexual Offences Act 1956

- (1) It is an offence, subject to the exception mentioned in this section, for a person to take an unmarried girl under the age of eighteen out of the possession of her parent or guardian his will, if she is so taken with the intention that she shall have unlawful sexual intercourse with men or with a particular man.
- (2) A person is not guilty of an offence under this section if he takes such a girl out of the possession of her parent or guardian as mentioned above, if he believes her to be the age of eighteen and had reasonable cause for the belief.
- (3) In this section "Guardian" means any person having parental responsibility for or care of the girl.

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Mode of prosecution: On indictment
Maximum punishment: Two Years Imprisonment

ABDUCTION OF AN UNMARRIED GIRL UNDER THE AGE OF 16 FROM HER PARENT OR GUARDIAN

Section 20 of the Sexual Offences Act 1956

(1) It is an offence for a person acting without lawful authority or excuse to take an unmarried girl under the age of sixteen out of the possession of her parent or guardian his will.

(2) In the foregoing subsection "Guardian" means any person having parental responsibility for or care of the girl.

Mode of prosecution: On indictment
Maximum punishment: Two Years Imprisonment

ABDUCTION OF A DEFECTIVE FROM HIS OR HER PARENT OR GUARDIAN

Section 21 of the Sexual Offences Act 1956

(1) It is an offence, subject to the exception mentioned in this section, for a person to take an a woman who is a defective out of the possession of her parent or guardian his will, if she is so taken with the intention that she shall have unlawful sexual intercourse with men or with a particular man.

(2) A person is not guilty of an offence under this section if he takes such a woman out of the possession of her parent or guardian as mentioned above, if he does not know and has no reason to suspect her to be defective.

(3) In this section "Guardian" means any person having parental responsibility for or care of the girl.

Mode of prosecution: On indictment
Maximum punishment: Two Years Imprisonment

DETENTION OF A WOMAN IN A BROTHEL OR OTHER PREMISES

Section 24 of the Sexual Offences Act 1956

(1) It is an offence for a person to detain a woman against her will on any premises with the intention that she shall have unlawful sexual intercourse with men or with a particular man, or to detain a woman against her will in a brothel.

(2) Where a woman is on any premises for the purpose of having unlawful sexual intercourse or is in a brothel, a person shall be deemed for the purpose of the foregoing subsection to detain her there if, with the intention of compelling or inducing her to remain there, he either withholds from her her clothes or any other property belonging to her or threatens her with legal proceedings in the event of her taking away clothes provided for her by him or on his directions.

(3) A woman shall not be liable for any legal proceedings, whether civil or criminal, for taking

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away or being found in possession of any clothes she needed to enable her to leave premises on which she was for the purposes of having unlawful sexual intercourse or to leave a brothel.

Mode of prosecution: On indictment
Maximum punishment: Two Years Imprisonment

PERMITTING A GIRL UNDER THE AGE OF 13 TO USE PREMISES FOR INTERCOURSE

Section 25 of the Sexual Offences Act 1956

It is a felony for a person who is the owner or occupier of any premises, or who has, or acts or assists in, the management or control of any premises, to induce or knowingly suffer a girl under the age of thirteen to resort to or be on those premises for the purpose of having unlawful sexual intercourse with men or with a particular man.

Mode of prosecution: On indictment
Maximum punishment: Life Imprisonment

PERMITTING A GIRL UNDER THE AGE OF 16 TO USE PREMISES FOR INTERCOURSE

Section 26 of the Sexual Offences Act 1956

It is a felony for a person who is the owner or occupier of any premises, or who has, or acts or assists in, the management or control of any premises, to induce or knowingly suffer a girl under the age of sixteen to resort to or be on those premises for the purpose of having unlawful sexual intercourse with men or with a particular man.

Mode of prosecution: On indictment
Maximum punishment: Two Years Imprisonment

PERMITTING A DEFECTIVE TO USE PREMISES FOR INTERCOURSE

Section 27 of the Sexual Offences Act 1956

(1) It is an offence, subject to the exception mentioned in this section, for a person who is the owner or occupier of any premises, or who has, or acts or assists in, the management or control of any premises, to induce or knowingly suffer a woman who is a defective to resort to or be on those premises for the purpose of having unlawful sexual intercourse with men or with a particular man.

(2) A person is not guilty of an offence under this section because he induces or knowingly suffers a defective to resort to or be on any premises for the purpose mentioned, if he does not know and has no reason to suspect her to be a defective.

Mode of prosecution: On indictment
Maximum punishment: Two Years Imprisonment

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CAUSING OR ENCOURAGING PROSTITUTION OF, INTERCOURSE WITH, OR INDECENT ASSAULT ON, GIRL UNDER THE AGE OF 16

Section 28 of the Sexual Offences Act 1956

(1) It is an offence for a person to cause or encourage the prostitution of, or the commission of unlawful sexual intercourse with, or the indecent assault on, a girl under the age of sixteen for whom he is responsible.

(2) Where a girl has become a prostitute, or has had unlawful sexual intercourse, or has been indecently assaulted, a person shall be deemed for the purposes of this section to have caused or encouraged it, if he knowingly allowed her to consort with, or to enter or continue in the employment of, any prostitute or person of known immoral character.

Mode of prosecution: On indictment
Maximum punishment: Two Years Imprisonment

PROCURING OTHERS TO COMMIT HOMOSEXUAL ACTS

Section 4 of the Sexual Offences Act 1967

(1) A man who procures another man to commit with a third man an act of buggery which by reason of section 1 of this Act is not an offence shall be liable on conviction on indictment to imprisonment for a term not exceeding two years.

Mode of prosecution: On indictment
Maximum punishment: Two Years Imprisonment

INDECENT CONDUCT TOWARDS A YOUNG CHILD

Section 1 of the Indecency with Children Act 1960

(1) Any person who commits an act of gross indecency with or towards a child under the age of 14, or who incites a child under the age to such an act with him or another shall be liable on conviction or indictment to imprisonment for a term not exceeding ten years or on summary conviction to imprisonment for a term not exceeding six months, to a fine not exceeding the statutory maximum, or to both.

Mode of prosecution: Triable Either Way
Maximum punishment: Ten Years Imprisonment

INDECENT PHOTOGRAPHS OF CHILDREN

Section 1 of the Protection of Children Act 1978

(1) it is an offence for a person -

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(a) to take, or permit to be taken, or to make any indecent photograph or pseudo-photograph of a child; or (b) to distribute or show such indecent photographs or pseudo-photographs; or (c) to have in his possession such indecent photographs or pseudo-photographs, with a view to their being distributed or shown by himself or others; or (d) to publish or cause to be published any advertisement likely to be understood as conveying that the advertiser distributes or shows such indecent photographs or pseudo-photographs, or intends to do so.

(2) For purposes of this Act, a person is to be regarded as distributing an indecent photograph or pseudo-photograph if he parts with possession of it to, or exposes or offers it for acquisition by, another person.

(3) Proceedings for an offence under this Act shall not be instituted except by or with the consent of the Director of Public Prosecutions.

(4) Where a person is charged with an offence under subsection (1)(b) or (c), it shall be a defence for him to prove -

(a) that he had a legitimate reason for distributing or showing the photographs or pseudo-photographs or (as the case may be) having them in his possession; or

(b) that he had not himself seen the photographs or pseudo-photographs and did not know, nor had any cause to suspect them to be indecent.

Section 7 of the Protection of Children Act 1978

(1) The following subsections apply for the interpretation of this Act.

(2) References to an indecent photograph include an indecent film, a copy of an indecent photograph or film, and an indecent photograph comprised in a film.

(3) Photographs (including those comprised in a film) shall, if they show children and are indecent, be treated for all purposes of this Act as indecent photographs of children and so as respects pseudo-photographs.

(4) References to a photograph include -

(a) the negative as well as the positive version; and

(b) data stored on a computer disc or by other electronic means which is capable of conversion into a photograph.

(5) "Film" includes any form of video-recording.

(6) "Child", subject to subsection (8), means a person under the age of 16.

(7) "Pseudo-photograph" means an image, whether made by computer-graphics or otherwise howsoever, which appears to be a photograph.

(8) If the impression conveyed by a pseudo-photograph is that the person shown is a child, the pseudo-photograph shall be treated for all purposes of this Act as showing a child and so shall a pseudo-photograph where the predominant impression conveyed is that the person shown is a child notwithstanding that some of the physical characteristics shown are those of an adult.

(9) References to an indecent pseudo-photograph include -

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- (a) a copy of an indecent pseudo-photograph; and
- (b) data stored on a computer disc or by other electronic means which is capable of conversion into a pseudo-photograph.

Mode of prosecution: Triable Either Way
Maximum punishment: Three Years Imprisonment

POSSESSION OF AN INDECENT PHOTOGRAPH OF A CHILD

Section 160 of the Criminal Justice Act 1988

- (1) It is an offence for a person to have any indecent photograph of a child (meaning in this section a person under the age of 16) in his possession.
- (2) Where a person is charged with an offence under subsection (1) above, it shall be a defence for him to prove—

(a) that he had a legitimate reason for having the photograph in his possession; or

(b) that he had not himself seen the photograph and did not know, nor had any cause to suspect, it to be indecent; or

(c) that the photograph was sent to him without any prior request made by him or on his behalf and that he did not keep it for an unreasonable time.

(3) A person shall be liable on summary conviction of an offence under this section to a fine not exceeding level 5 on the standard scale.

(4) Sections 1(3), 2(3), 3 and 7 of the [1978 c. 37.] Protection of Children Act 1978 shall have effect as if any reference in them to that Act included a reference to this section.

(5) Possession before this section comes into force is not an offence.

Mode of prosecution: Summary Trial
Maximum punishment: Six Months Imprisonment~
And Amendments made in the Sexual Offences Act 2003