

## **DOMESTIC ABUSE BILL: KEELING SCHEDULES**

This document shows provisions in other enactments as they would be amended by the Bill. It is intended to assist the consideration of these provisions in the Bill and should not be taken as a definitive statement of the law as it would have effect on the enactment of the Bill.

Deletions are shown ~~struck through~~ and additions in *italics*.

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**Section 11 of the Criminal Procedure (Scotland) Act 1995 as amended by paragraph 4 of Schedule 2 to the Bill**

**11— Certain offences committed outside Scotland.**

(1) Any ~~British citizen or British subject~~ *relevant person* who in a country outside the United Kingdom does any act or makes any omission which if done or made in Scotland would constitute the crime of murder or of culpable homicide shall be guilty of the same crime and subject to the same punishment as if the act or omission had been done or made in Scotland.

(2) Any ~~British citizen or British subject~~ *relevant person* employed in the service of the Crown who, in a foreign country, when acting or purporting to act in the course of his employment, does any act or makes any omission which if done or made in Scotland would constitute an offence punishable on indictment shall be guilty of the same offence and subject to the same punishment, as if the act or omission had been done or made in Scotland.

*(2A) Any relevant person who in a country outside the United Kingdom does any act which—*

- (a) constitutes an offence under the law in force in that country, and*
- (b) if done in Scotland would constitute the crime of assault, is guilty of the same crime and subject to the same punishment as if the act had been done in Scotland.*

*(2B) In subsections (1) to (2A)—*

*“country” includes territory;*

*“relevant person” means a person who is a United Kingdom national or is habitually resident in Scotland;*

*“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.*

(3) A person may be prosecuted, tried and punished for an offence to which this section applies—

- (a) in any sheriff court district in Scotland in which he is apprehended or is in custody; or
- (b) in such sheriff court district as the Lord Advocate may determine, as if the offence had been committed in that district, and the offence shall, for all purposes incidental to or consequential on the trial or punishment thereof, be deemed to have been committed in that district.

(4) Any person who—

- (a) has in his possession in Scotland property which he has stolen in any other part of the United Kingdom; or

(b) in Scotland receives property stolen in any other part of the United Kingdom,  
may be prosecuted, tried and punished in Scotland in like manner as if he had stolen it in Scotland.

(5) Where a person in any part of the United Kingdom outside Scotland—  
(a) steals or attempts to steal any mail-bag or postal packet in the course of its transmission by post, or any of the contents of such a mail-bag or postal packet; or  
(b) in stealing or with intent to steal any such mail-bag or postal packet or any of its contents commits any robbery, attempted robbery or assault with intent to rob,  
he is guilty of the offence mentioned in paragraph (a) or (b) as if he had committed it in Scotland and shall be liable to be prosecuted, tried and punished there without proof that the offence was committed there.

(6) Any expression used in subsection (5) and in the Postal Services Act 2000 has the same meaning in that subsection as it has in that Act.

**Section 17 of the Youth Justice and Criminal Evidence Act 1999 as amended by clause 58(2) of the Bill**

**17 — Witnesses eligible for assistance on grounds of fear or distress about testifying.**

(1) For the purposes of this Chapter a witness in criminal proceedings (other than the accused) is eligible for assistance by virtue of this subsection if the court is satisfied that the quality of evidence given by the witness is likely to be diminished by reason of fear or distress on the part of the witness in connection with testifying in the proceedings.

(2) In determining whether a witness falls within subsection (1) the court must take into account, in particular—

- (a) the nature and alleged circumstances of the offence to which the proceedings relate;
- (b) the age of the witness;
- (c) such of the following matters as appear to the court to be relevant, namely—
  - (i) the social and cultural background and ethnic origins of the witness,
  - (ii) the domestic and employment circumstances of the witness, and
  - (iii) any religious beliefs or political opinions of the witness;
- (d) any behaviour towards the witness on the part of—
  - (i) the accused,
  - (ii) members of the family or associates of the accused, or
  - (iii) any other person who is likely to be an accused or a witness in the proceedings.

(3) In determining that question the court must in addition consider any views expressed by the witness.

(4) Where the complainant in respect of ~~a sexual offence or an offence under section 1 or 2 of the Modern Slavery Act 2015~~ *an offence listed in subsection (4A)* is a witness in proceedings relating to that offence (or to that offence and any other offences), the witness is eligible for assistance in relation to those proceedings by virtue of this subsection unless the witness has informed the court of the witness' wish not to be so eligible by virtue of this subsection.

*(4A) The offences are—*

- (a) a sexual offence;*
- (b) an offence under section 1 or 2 of the Modern Slavery Act 2015;*
- (c) any other offence where it is alleged that the behaviour of the accused amounted to domestic abuse within the meaning of the Domestic Abuse Act 2020 (see section 1 of that Act).*

(5) A witness in proceedings relating to a relevant offence (or to a relevant offence and any other offences) is eligible for assistance in relation to those proceedings by virtue of this subsection unless the witness has informed the court of the witness's wish not to be so eligible by virtue of this subsection.

(6) For the purposes of subsection (5) an offence is a relevant offence if it is an offence described in Schedule 1A.

(7) The Secretary of State may by order amend Schedule 1A.

**Section 25 of the Youth Justice and Criminal Evidence Act 1999 as amended by clause 58(3) of the Bill**

**25 — Evidence given in private.**

(1) A special measures direction may provide for the exclusion from the court, during the giving of the witness's evidence, of persons of any description specified in the direction.

(2) The persons who may be so excluded do not include—

- (a) the accused,
- (b) legal representatives acting in the proceedings, or
- (c) any interpreter or other person appointed (in pursuance of the direction or otherwise) to assist the witness.

(3) A special measures direction providing for representatives of news gathering or reporting organisations to be so excluded shall be expressed not to apply to one named person who—

- (a) is a representative of such an organisation, and
  - (b) has been nominated for the purpose by one or more such organisations,
- unless it appears to the court that no such nomination has been made.

(4) A special measures direction may only provide for the exclusion of persons under this section where—

- (a) the proceedings relate to ~~a sexual offence or an offence under section 1 or 2 of the Modern Slavery Act 2015~~ *an offence listed in section 17(4A)*; or
- (b) it appears to the court that there are reasonable grounds for believing that any person other than the accused has sought, or will seek, to intimidate the witness in connection with testifying in the proceedings.

(5) Any proceedings from which persons are excluded under this section (whether or not those persons include representatives of news gathering or reporting organisations) shall nevertheless be taken to be held in public for the purposes of any privilege or exemption from liability available in respect of fair, accurate and contemporaneous reports of legal proceedings held in public.

**Section 72 of the Sexual Offences Act 2003 as amended by paragraph 2(2) of Schedule 2 to the Bill**

**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, would constitute a sexual offence to which this ~~section~~ *subsection* applies,

the United Kingdom national is guilty in England and Wales 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, would constitute a sexual offence to which this ~~section~~ *subsection* applies,

the United Kingdom resident is guilty in England and Wales of that sexual offence.

(2A) If—

*(a) a person who is a United Kingdom national or 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, would constitute a sexual offence to which this subsection applies,*

*the person is guilty in England and Wales of that sexual offence.*

(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, would have constituted a sexual offence to which this ~~section~~ *subsection* applies, and

(d) the person meets the residence or nationality condition at the relevant time,

proceedings may be brought against the person in England and Wales 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), (2A) and (3) however it is described in that law.

(6) The condition in subsection (2)(b), (2A)(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~~ *subsections (1) to (3) apply*.



**Schedule 2 to the Sexual Offences Act 2003 as amended by paragraph 2(3) of Schedule 2 to the Bill**

**Schedule 2: Sexual offences to which ~~Section 72~~ Section 72(1) to (3) applies**

**1 England and Wales**

In relation to England and Wales, the following are sexual offences to which ~~section 72 applies~~ *subsections (1), (2) and (3) of section 72 apply* –

- (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;
- (c) an offence under section 62 or 63 where the intended offence was an offence against a person under 18;
- (d) an offence under–
  - (i) section 1 of the Protection of Children Act 1978 (c. 37) (indecent photographs of children), or
  - (ii) section 160 of the Criminal Justice Act 1988 (c. 33) (possession of indecent photograph of child).

**1A**

*In relation to England and Wales, the sexual offences to which subsection (2A) of section 72 applies are an offence under any of sections 1 to 4 where the victim of the offence was 18 or over at the time of the offence.*

**2 [Repealed]**

**3 General**

A reference in paragraph 1 or 1A to an offence includes–

- (a) a reference to an attempt, conspiracy or incitement to commit that offence; and
- (b) a reference to aiding and abetting, counselling or procuring the commission of that offence.

## **Section 37 of the Government of Wales Act 2006 as amended by clause 18(3) of the Bill**

### **37 - Power to call**

- (1) Subject as follows, the Assembly may require any person—
- (a) to attend Assembly proceedings for the purpose of giving evidence, or
  - (b) to produce for the purposes of the Assembly (or a committee of the Assembly or a sub-committee of such a committee) documents in the possession, or under the control, of the person,

concerning any matter relevant to the exercise by the Welsh Ministers of any of their functions, relevant to the exercise of any of the Auditor General for Wales' functions, or relevant to the oversight and supervision of the Auditor General for Wales, or to the oversight and supervision of the exercise of any of his or her functions.

- (2) The Assembly may not impose a requirement under subsection (1) on a person who is not involved in the exercise of functions, or the carrying on of activities, in relation to Wales or the Welsh zone.

- (3) The Assembly may not impose a requirement under subsection (1) on a person who—

- (a) is or has been a Minister of the Crown, or
- (b) serves or has served in the department of a Minister of the Crown,

in relation to the exercise of any functions of a Minister of the Crown.

- (4) The Assembly—

- (a) may not impose a requirement under subsection (1) on a person who is a full-time judge of any court, and
- (b) may not impose such a requirement on a person who is not within paragraph (a) but who is or has been a member of any court or tribunal in connection with the exercise of functions as such a member.

- (5) Where a requirement under subsection (1) is imposed on a person who is or has been a member of the staff of the Welsh Government (or a person seconded to work for the Welsh Government) in relation to the exercise of any functions of the Welsh Ministers, the First Minister or the Counsel General, any of them may issue a direction under subsection (6).

- (6) A direction under this subsection is a direction—

- (a) that the person on whom the requirement was imposed need not comply with it, and
- (b) that the requirement is instead to be complied with by another person specified in the direction.

- (6A) Subsection (1) applies in relation to requirements imposed on a person in connection with the discharge of the functions of the Gas and Electricity Markets Authority in relation to Wales with the omission of the words after paragraph (b).

*(6B) Subsection (1) applies in relation to things done by the Domestic Abuse Commissioner by virtue of section 6(4)(b) or (c) of the Domestic Abuse Act 2020 (functions exercisable in relation to Welsh devolved authorities etc) as it applies in relation to the exercise by the Welsh Ministers of their functions.*

(7) The powers conferred by subsection (1)–

(a) may be exercised by and for the purposes of the Audit Committee, and

(b) may be exercised by and for the purposes of any other committee of the Assembly, or any sub-committee of any committee of the Assembly, if the committee or sub-committee is expressly authorised to do so by the Assembly (whether by the standing orders or otherwise).

(8) A person is not obliged under this section to answer any question or produce any document which the person would be entitled to refuse to answer or produce in or for the purposes of proceedings in a court in England and Wales.

(9) A person acting as prosecutor in criminal proceedings is not obliged under this section to answer any question or produce any document concerning the operation of the system of criminal prosecution in any particular case if the appropriate officer–

(a) considers that answering the question or producing the document might prejudice criminal proceedings in the case or would otherwise be contrary to the public interest, and

(b) has authorised the person to decline to answer the question or produce the document on that ground.

(10) In subsection (9) “the appropriate officer” means–

(a) if the proceedings were instituted by or on behalf of the Welsh Ministers, the First Minister or the Counsel General, the Counsel General, and

(b) otherwise, the Attorney General.

## **Section 28 of the Offender Management Act 2007 as amended by clause 63 of the Bill**

### **28 - Application of polygraph condition**

(1) The Secretary of State may include a polygraph condition in the licence of a person to whom this section applies.

(2) This section applies to a person serving a relevant custodial sentence in respect of ~~a relevant sexual offence~~ *an offence within subsection (3A)* who—

- (a) is released on licence by the Secretary of State under any enactment; and
- (b) is not aged under 18 on the day on which he is released.

(3) In this section “relevant custodial sentence” means—

- (a) a sentence of imprisonment ~~for a term of twelve months or more~~ *that is not for a term of less than twelve months* (including such a sentence imposed under section 226A or 227 of the Criminal Justice Act 2003 (c. 44));
- (b) a sentence of detention in a young offender institution for a term of twelve months or more;
- (c) a sentence of detention under section 90 of the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6);
- (d) a sentence of detention under section 91 of the Powers of Criminal Courts (Sentencing) Act 2000 for a period of twelve months or more;
- (e) a sentence of custody for life under section 93 or 94 of the Powers of Criminal Courts (Sentencing) Act 2000; or
- (f) a sentence of detention under section 226A or 226 or 228 of the Criminal Justice Act 2003.

(3A) *An offence is within this subsection if it is —*

- (a) *A relevant offence involving domestic abuse (see subsections (3B) and (3C)), or*
- (b) *A relevant sexual offence (see subsection (4)).*

(3B) *In this section “relevant offence involving domestic abuse” means—*

- (a) *an offence listed in subsection (3C) which involved behaviour by the offender amounting to domestic abuse within the meaning of the Domestic Abuse Act 2020 (see section 1 of that Act);*
- (b) *an offence under section 36 of that Act (breach of domestic abuse protection order).*

(3C) *The offences are—*

- (a) *murder;*
- (b) *an offence under section 5 of the Protection from Harassment Act 1997 (breach of a restraining order);*
- (c) *an offence specified in Part 1 of Schedule 15 to the Criminal Justice Act 2003 (specified violent offences);*
- (d) *an offence under section 76 of the Serious Crime Act 2015 (controlling or coercive behaviour in an intimate or family relationship).*

(4) In this section “relevant sexual offence” means—

- (a) an offence specified in Part 2 of Schedule 15 to the Criminal Justice Act 2003 (specified sexual offences);
- (b) an offence specified in paragraphs 1 to 21 of Schedule 16 to that Act (offences under the law of Scotland); or
- (c) an offence specified in Part 2 of Schedule 17 to that Act (offences under the law of Northern Ireland).

(5) In section 250(4) of the Criminal Justice Act 2003 (licence conditions for prisoners serving sentences of imprisonment of twelve months or more etc), in paragraph (b)(i) after "Criminal Justice and Court Services Act 2000" there is inserted "or section 28 of the Offender Management Act 2007".

**Article 76 of the Sexual Offences (Northern Ireland) Order 2008 as amended by paragraph 8 of Schedule 2 to the Bill**

**76 — 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 Northern Ireland, would constitute a sexual offence to which this ~~Article~~ *paragraph* applies,

that United Kingdom national is guilty in Northern Ireland of that sexual offence.

(2) If—

(a) a United Kingdom resident does an act in a country outside the United Kingdom, and

(b) the act constitutes an offence under the law in force in that country, and

(c) the act, if done in Northern Ireland, would constitute a sexual offence to which this ~~Article~~ *paragraph* applies,

that United Kingdom resident is guilty in Northern Ireland of that sexual offence.

(2A) If—

*(a) a person who is a United Kingdom national or is resident in Northern Ireland 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 Northern Ireland, would constitute a sexual offence to which this paragraph applies,*

*the person is guilty in Northern Ireland of that sexual offence.*

(3) If—

(a) a person does an act in a country outside the United Kingdom at a time when that person was not a United Kingdom national or a United Kingdom resident, and

(b) the act constituted an offence under the law in force in that country,

(c) the act, if done in Northern Ireland, would have constituted a sexual offence to which this ~~Article~~ *paragraph* applies, and

(d) the person meets the residence or nationality condition at the relevant time,

proceedings may be brought against the person in Northern Ireland for that sexual offence as if that person had done the act in Northern Ireland.

(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 paragraphs (2), (2A) and (3), however it is described in that law.

(6) The condition in paragraph (2)(b), (2A)(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 paragraph (6).

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

(9) In this Article—

“country” includes “territory”;

“rules of court” means—

- (i) in relation to proceedings in a magistrates' court, magistrates' court rules;
- (ii) in relation to proceedings in the Crown Court, Crown Court rules;

“United Kingdom national” means an individual who is—

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

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

(10) The sexual offences to which ~~this Article applies~~ *paragraphs (1), (2) and (3) apply* are—

- (a) an offence under any provision of Part 3 (sexual offences against children) except Article 22A;
- (b) an offence under any provision of Part 2 or 4 where the victim of the offence was under 18 at the time of the offence;
- (c) an offence under Article 65 where the victim of the offence was under 18 at the time of the offence;
- (d) an offence under Article 66 or 67 where the intended offence was an offence against a person under 18;
- (e) an offence under—
  - (i) Article 3(1)(a) of the Protection of Children (Northern Ireland) Order 1978 (NI 17) (indecent photographs of children), or
  - (ii) Article 15 of the Criminal Justice (Evidence Etc.) (Northern Ireland) Order 1988 (NI 17) (possession of indecent photograph of child).

*(10A) The sexual offences to which paragraph (2A) applies are an offence under any provision of Part 2 where the victim of the offence was 18 or over at the time of the offence.*

(11) A reference in paragraph (10) *or* (10A) to an offence includes—  
    (a) a reference to an attempt or conspiracy to commit that offence; and  
    (b) a reference to aiding and abetting, counselling or procuring the  
        commission of that offence.

(12) A reference in paragraph (10) *or* (10A) to an offence (“offence A”) includes a reference to an offence under Part 2 of the Serious Crime Act 2007 (c. 27) in relation to which offence A is the offence (or one of the offences) which the person intended or believed would be committed.