

Sexual Offences (Amendment) Bill

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Make provision for the circumstances in which the sexual history of a victim of rape or attempted rape may be introduced at a trial; to prohibit in certain circumstances the disclosure by the police of a victim's identity to an alleged perpetrator of a serious sexual crime; to extend the range of serious offences which may be referred to the Court of Appeal on the grounds of undue leniency of the sentence; to amend the requirements for ground rules hearings; to make provision for the issuing in certain circumstances of guidance on safeguarding to schools; to make provision for training about serious sexual offences; to place a duty on the Secretary of State to provide guidelines for the courts in dealing with cases of serious sexual offences; to require the Secretary of State to report annually on the operation of the Act; and for connected purposes.

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Restriction on evidence or questions about complainant's sexual history

In section 41 of the Youth Justice and Criminal Evidence Act 1999 after subsection (1) there shall be inserted the following subsection—

- “(2) A Court in making a determination in respect of subsection (1) may require that the cross examination of a complainant shall not involve any matter appertaining to their appearance, behaviour or their sexual history with any unrelated third parties regardless of the nature of the complainant's alleged behaviour either before or subsequent to the current proceedings nor should such matters be admissible as evidence if the purpose is to undermine the credibility of the complainant unless it would be manifestly unjust to treat them as inadmissible.”
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2 Victims and witnesses of serious crime: disclosure

- (1) A police force, police officer or Crown Prosecutor may not without the consent of a Crown Court Judge disclose the identity of a victim or witness to a serious sexual assault or violent offence to the person accused of the offence, if—
- (a) the parties are strangers to one another, 5
 - (b) non-disclosure would not impact on the completion of a fair trial, and
 - (c) it is reasonable to assume that such a disclosure would put the victim or witness at risk of harm.
- (2) This section applies—
- (a) to disclosures made at police premises, and 10
 - (b) whether or not the person accused of the offence has been charged with the offence.

3 Reviews of sentencing

- The Secretary of State must by order under section 35 of the Criminal Justice Act 1988 (scope of Part 4) specify that the following additional offences may be reviewed under Part 4 (reviews of sentencing) of that Act— 15
- (a) section 4A (stalking involving fear of violence or serious alarm or distress) and section 5 (restraining orders on conviction) of the Protection from Harassment Act 1997, and
 - (b) section 76 (controlling or coercive behaviour in an intimate or family relationship) of the Serious Crime Act 2015. 20

4 Requirement for ground rules hearings in certain Crown Court cases

- (1) This section applies to proceedings in the Crown Court.
- (2) At the relevant time, the court shall decide whether it must hold a ground rules hearing. 25
- (3) The relevant time is the earlier of—
- (a) any time prescribed for this purpose in Criminal Procedure Rules, and
 - (b) the time when the jury are sworn, or would be sworn but for the making of an order under Part 7 of the Criminal Justice Act 2003.
- (4) The court shall hold a ground rules hearing if at the relevant time any of the parties proposes to call to give oral evidence a person eligible for assistance by virtue of section 16 (witnesses eligible for assistance on grounds of age or incapacity) or section 17 (witnesses eligible for assistance on grounds of fear or distress about testifying) of the Youth Justice and Criminal Evidence Act 1999. 30
- (5) At a ground rules hearing the court shall consider and make a decision in relation to all ground rules matters including the exclusion of any cross examination of the sexual history of the complainant. 35
- (6) Ground rules matters are those so prescribed in Criminal Procedure Rules.
- (7) This section does not prevent the court from additionally considering or making a decision in relation to a ground rules matter other than at a ground rules hearing. 40
- (8) In this section, “Criminal Procedure Rules” means rules made under section 69 of the Courts Act 2003.

5 Safeguarding and schools

The Secretary of State shall ensure that guidance is issued to all schools on the issue of safeguarding where there has been an accusation of sexual assault or abuse and a Police investigation is ongoing and both the victim and the accused are pupils at the same educational establishment.

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6 Provision of training and advice

- (1) The Secretary of State shall on this Act coming into force, publish and implement a strategy to provide training on the investigation of rape and alleged rape complaints, disclosure of a victim's name to an accused and admissibility and cross examination to—
 - (a) the Crown Prosecution Service,
 - (b) police forces, and
 - (c) such other public bodies as the Secretary of State considers appropriate.
- (2) The Secretary of State shall make provision to ensure that all jury members who are hearing rape or attempt rape prosecutions receive advice on the meaning of consent.

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7 Guidance

The Secretary of State shall issue guidance to the Courts on the implementation of the measures contained in this Act.

8 Annual report

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- (1) The Secretary of State shall lay before both Houses of Parliament an annual report on the impact of this Act.
- (2) The first annual report shall cover the period from the coming into force of this Act until the end of the calendar year.
- (3) Thereafter each annual report must be laid before the end of each calendar year.

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9 Interpretation

In this Act—

“the Crown Prosecution Service” has the meaning provided in section 1 of the Prosecution of Offences Act 1985;

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“Crown Prosecutor” includes staff of the Crown Prosecution Service acting on behalf of the Prosecutor;

“police force” has the meaning provided in sections 2 and 5A of the Police Act 1996 and section 20 of the Railways and Transport Safety Act 2003 and the City of London police.

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10 Short title, commencement and extent

- (1) This Act shall be cited as the Sexual Offences (Amendment) Act 2017.
- (2) This Act shall come into force on such a day as the Secretary of State may by statutory instrument appoint.

- (3) This Act extends to England and Wales, and Northern Ireland.

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*Ordered to be brought in by Liz Saville Roberts,
Jess Phillips,
Dr Sarah Wollaston,
Sir Edward Garnier,
Mr Graham Allen,
Carolyn Harris,
Tracy Brabin,
Alison Thewliss,
Ms Margaret Ritchie,
Tim Loughton,
Dr Eilidh Whiteford and Mr Alistair Carmichael.*

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