

Marriage and Civil Partnership (Minimum Age) Bill [HL]

CONTENTS

- 1 Age of consent for marriage
- 2 Age of consent for civil partnership
- 3 Repeals consequential on section 2
- 4 Offence of child marriage
- 5 Offence of failing to protect a child from entering a marriage
- 6 Anonymity of victims
- 7 Penalties for offences
- 8 Duty to notify police of child marriage
- 9 Child marriage protection orders
- 10 Definitions
- 11 Extent, commencement and short title

Schedule 1 – Anonymity of victims
Schedule 2 – Child Marriage Protection Orders

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TO

Revoke parental or judicial consent which permits the marriage or civil partnership of a child and to criminalise child marriage or civil partnership under the age of 18; 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 Age of consent for marriage

(1) For section 2 of the Marriage Act 1949 substitute—

“2 Marriages of persons under eighteen

A marriage solemnized between persons either of whom is under the age of eighteen shall be void.”

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(2) Omit section 3 (marriages of persons under twenty-one).

2 Age of consent for civil partnership

(1) For subsection (1)(c) of section 3 of the Civil Partnership Act 2004 substitute—
“(c) either of them is under 18; or”

(2) Omit section 4 (parental etc. consent where proposed civil partner under 18).

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3 Repeals consequential on section 2

In the Civil Partnership Act 2004, omit the following (which relate to the civil partnership of persons aged under 18)—

- (a) section 5(3)(b);
- (b) section 31(1)(c);
- (c) section 49(c); and
- (d) Schedule 2 paragraph 4.

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4 Offence of child marriage

- (1) A person commits an offence in England and Wales if he or she –
- (a) aids, abets, counsels, procures, encourages or assists a child under the age of 18 to enter into a marriage, or
 - (b) conspires to aid, abet, counsel, procure, encourage or assist a child under the age of 18 to enter into a marriage. 5
- (2) If an offence under this Act is committed outside England and Wales –
- (a) proceedings may be taken, and
 - (b) the offence may for incidental purposes be treated as having been committed, 10
- in any place in England and Wales.

5 Offence of failing to protect a child from entering a marriage

- (1) If an offence under section 4 is committed against a child under the age of 18, each person who is responsible for the child at the relevant time is guilty of an offence under this section. 15
- (2) For the purposes of this section a person is “responsible” for a child in the following two cases.
- (3) The first case is where the person –
- (a) has parental responsibility for the child, and
 - (b) has frequent contact with the child. 20
- (4) The second case is where the person –
- (a) is aged 18 or over, and
 - (b) has assumed (and not relinquished) responsibility for caring for the child in the manner of a parent.
- (5) It is a defence for the person to show that – 25
- (a) at the relevant time, the person did not think that there was a risk of a child marriage taking place, and could not reasonably have been expected to be aware that there was any such risk, or
 - (b) the person took such steps as he or she could reasonably have been expected to take to protect the relevant child from entering a marriage, or 30
 - (c) the person is compelled to commit the offence, or
 - (d) a reasonable person in the same situation as the person and having the person’s relevant characteristics would have no realistic alternative to committing the offence. 35
- (6) A person is taken to have shown the fact mentioned in subsection (5)(a) or (b) if –
- (a) sufficient evidence of the fact is adduced to raise an issue with respect to it, and
 - (b) the contrary is not proved beyond reasonable doubt. 40
- (7) For the purposes of subsection (3)(b), where a person has frequent contact with a child which is interrupted by the child going to stay somewhere temporarily, that contact is treated as continuing during their stay there.
- (8) In this section –

“parental responsibility”, in England and Wales, has the same meaning as in the Children Act 1989;

“relevant characteristics” means age, sex and any physical or mental illness or disability.

- 6 Anonymity of victims** 5
- Schedule 1 provides for the anonymity of children against whom a child marriage offence (as defined in that Schedule) is alleged to have been committed.
- 7 Penalties for offences**
- (1) A person guilty of an offence under section 4 is liable – 10
- (a) on conviction on indictment, to imprisonment for a term not exceeding seven years or a fine (or both),
 - (b) on summary conviction to imprisonment for a term not exceeding 12 months or a fine (or both).
- (2) A person guilty of an offence under section 5 is liable – 15
- (a) on conviction on indictment, to imprisonment for a term not exceeding seven years or a fine (or both),
 - (b) on summary conviction to imprisonment for a term not exceeding 12 months or a fine (or both).
- 8 Duty to notify police of child marriage** 20
- (1) A person who works in a regulated profession in England and Wales must make a notification under this section if, in the course of his or her work in the profession, the person discovers that a marriage could take place or has taken place and it appears to have been carried out on a child who is aged under 18.
- (2) For the purposes of this section – 25
- (a) a person works in a “regulated profession” if the person is –
 - (i) a healthcare professional,
 - (ii) a teacher, or
 - (iii) a social care worker;
 - (b) a person “discovers” a child marriage could take place or has taken place on a child who is aged under 18 in either of the following two cases. 30
- (3) The first case is where the child informs the person that a child marriage could take place or has taken place for them (however described).
- (4) The second case is where the person receives a third party disclosure that a child marriage could take place or has taken place. 35
- (5) A child marriage notification –
- (a) is to be made to the chief officer of police for the area in which the child resides;
 - (b) must identify the child and explain why the notification is made; 40
 - (c) must be made before the end of two weeks from the time when the person making the notification first discovers that a child marriage could take place or has taken place;

- (d) may be made orally or in writing.
- (6) The duty of a person working in a particular regulated profession to make a child marriage notification does not apply if the person has reason to believe that another person working in that profession has previously made a child marriage notification in connection with the same act of child marriage. 5
- (7) For this purpose, all persons falling within subsection (2)(a)(i) are to be treated as working in the same regulated profession.
- (8) A disclosure made in a child marriage notification does not breach—
- (a) any obligation of confidence owed by the person making the disclosure, or 10
- (b) any other restriction on the disclosure of information.
- (9) The Secretary of State may by regulations amend this section for the purpose of adding, removing or otherwise altering the descriptions of persons regarded as working in a “regulated profession” for the purposes of this section.
- (10) The power to make regulations under this section— 15
- (a) is exercisable by statutory instrument;
- (b) includes power to make consequential, transitional, transitory or saving provision.
- (11) A statutory instrument containing regulations under this section is not to be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament. 20
- (12) In this section—
- “act of child marriage” means an act of a kind mentioned in section 4(1);
- “healthcare professional” means a person registered with any of the regulatory bodies mentioned in section 25(3) of the National Health Service Reform and Health Care Professions Act 2002 (bodies within remit of the Professional Standards Authority for Health and Social Care); 25
- “registered”, in relation to a regulatory body, means registered in a register that the body maintains by virtue of any enactment; 30
- “social care worker” means a person registered in a register maintained by Social Care England (or other bodies within the remit of the Health and Care Professions Council) or the Care Council for Wales under section 56 of the Care Standards Act 2000;
- “teacher” means, in relation to England, a person within section 141A(1) of the Education Act 2002 (persons employed or engaged to carry out teaching work at schools and other institutions in England); 35
- (13) For the purposes of the definition of “healthcare professional”, the following provisions of section 25 of the National Health Service Reform and Health Care Professions Act 2002 are to be ignored— 40
- (a) paragraph (g) of subsection (3);
- (b) subsection (3A).

9 Child marriage protection orders

Schedule 2 (child marriage protection orders) has effect.

10 Definitions

- (1) “Marriage” means any customary, religious or civil ceremony of marriage (whether or not legally binding).
- (2) “Child” means a person under the age of 18.
- (3) A person commits an offence under section 4 or 5 only if, at the time of the conduct – 5
 - (a) the person or the child or both of them are in England or Wales, or
 - (b) neither the person nor the child is in England and Wales but at least one of them is habitually resident in England and Wales.

11 Extent, commencement and short title 10

- (1) This Act extends to England and Wales only.
- (2) This Act comes into force at the end of the period of two months beginning on the day on which it is passed.
- (3) This Act may be cited as the Marriage and Civil Partnership (Minimum Age) Act 2020. 15

SCHEDULES

SCHEDULE 1

Section 6

ANONYMITY OF VICTIMS

Prohibition on the identification of victims in publications

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| 1 | (1) This paragraph applies where an allegation has been made that a child marriage offence has been committed against a person. | 5 |
| | (2) No matter likely to lead members of the public to identify the person, as the person against whom the offence is alleged to have been committed, may be included in any publication during the person's lifetime. | |
| | (3) For the purposes of this Schedule, any consent of the person to an act giving rise to the alleged offence is not to be taken as preventing that person from being regarded as a person against whom the alleged offence was committed. | 10 |
| | (4) In any criminal proceedings before a court, the court may direct that the restriction imposed by sub-paragraph (2) is not to apply (whether at all in England and Wales, or to the extent specified in the direction) if the court is satisfied that either of the following conditions is met. | 15 |
| | (5) The first condition is that the conduct of a person's defence at a trial of a child marriage offence would be substantially prejudiced if the direction was not given. | 20 |
| | (6) The second condition is that— | |
| | (a) the effect of sub-paragraph (2) is to impose a substantial and unreasonable restriction on the reporting of the proceedings, and | |
| | (b) it is in the public interest to remove or relax the restriction. | |
| | (7) A direction under sub-paragraph (4) does not affect the operation of sub-paragraph (2) at any time before the direction is given. | 25 |
| | (8) In this paragraph “the court” means, in England and Wales, a magistrates' court or the Crown Court. | |

Penalty for breaching prohibition imposed by paragraph 1(2)

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| 2 | (1) If anything is included in a publication in contravention of the prohibition imposed by paragraph 1(2), each of the persons responsible for the publication is guilty of an offence. | 30 |
| | (2) A person guilty of an offence under this paragraph is liable on summary conviction in England and Wales to a fine. | |
| | (3) The persons responsible for a publication are as follows— | 35 |

<i>Type of publication</i>	<i>Persons responsible</i>	
Newspaper or other periodical	Any person who is a proprietor, editor or publisher of the newspaper or periodical.	
Relevant programme	Any person who – (a) is a body corporate engaged in providing the programme service in which the programme is included, or (b) has functions in relation to the programme corresponding to those of an editor of a newspaper.	5 10
Any other kind of publication	Any person who publishes the publication.	

- (4) If an offence under this paragraph is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of –
- (a) a senior officer of a body corporate, or
 - (b) a person purporting to act in such a capacity,
- the senior officer or person (as well as the body corporate) is guilty of the offence and liable to be proceeded against and punished accordingly. 20
- (5) “Senior officer”, in relation to a body corporate, means a director, manager, secretary or other similar officer of the body corporate; and for this purpose “director”, in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.
- (6) Proceedings for an offence under this paragraph, if alleged to have been committed in England and Wales, may not be instituted except by, or with the consent of, the Attorney General. 25

Offence under paragraph 2: defences

- 3 (1) This paragraph applies where a person (“the defendant”) is charged with an offence under paragraph 2 as a result of the inclusion of any matter in a publication. 30
- (2) It is a defence for the defendant to prove that, at the time of the alleged offence, the defendant was not aware, and did not suspect or have reason to suspect, that –
- (a) the publication included the matter in question, or
 - (b) the allegation in question had been made.
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- (3) It is a defence for the defendant to prove that the publication in which the matter appeared was one in respect of which the victim had given written consent to the appearance of matter of that description.
- (4) The defence in sub-paragraph (3) is not available if –
- (a) the victim was under the age of 16 at the time when their consent was given, or
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(b) a person interfered unreasonably with the peace and comfort of the victim with a view to obtaining their consent.

(5) In this paragraph “the victim” means the person against whom the child marriage offence in question is alleged to have been committed.

Special rules for providers of information society services

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4 (1) Paragraph 2 applies to a domestic service provider who, in the course of providing information society services, publishes prohibited matter in an EEA state other than the United Kingdom (as well as to a person, of any description, who publishes prohibited matter in England and Wales).

(2) Proceedings for an offence under paragraph 2, as it applies to a domestic service provider by virtue of sub-paragraph (1), may be taken at any place in England and Wales. 10

(3) Nothing in this paragraph affects the operation of any of paragraphs 6 to 8.

5 (1) Proceedings for an offence under paragraph 2 may not be taken against a non-UK service provider in respect of anything done in the course of the provision of information society services unless the derogation condition is met. 15

(2) The derogation condition is that taking proceedings –

- (a) is necessary for the purposes of the public interest objective,
- (b) relates to an information society service that prejudices that objective or presents a serious and grave risk of prejudice to that objective, and 20
- (c) is proportionate to that objective.

(3) “The public interest objective” means the pursuit of public policy.

6 (1) A service provider does not commit an offence under paragraph 2 by providing access to a communication network or by transmitting, in a communication network, information provided by a recipient of the service, if the service provider does not – 25

- (a) initiate the transmission,
- (b) select the recipient of the transmission, or
- (c) select or modify the information contained in the transmission. 30

(2) For the purposes of sub-paragraph (1) –

- (a) providing access to a communication network, and
- (b) transmitting information in a communication network,

include the automatic, intermediate and transient storage of the information transmitted so far as the storage is solely for the purpose of carrying out the transmission in the network. 35

(3) Sub-paragraph (2) does not apply if the information is stored for longer than is reasonably necessary for the transmission.

7 (1) A service provider does not commit an offence under paragraph 2 by storing information provided by a recipient of the service for transmission in a communication network if the first and second conditions are met. 40

(2) The first condition is that the storage of the information –

- (a) is automatic, intermediate and temporary, and

- (b) is solely for the purpose of making more efficient the onward transmission of the information to other recipients of the service at their request.
- (3) The second condition is that the service provider –
 - (a) does not modify the information, 5
 - (b) complies with any conditions attached to having access to the information, and
 - (c) if sub-paragraph (4) applies, promptly removes the information or disables access to it.
- (4) This sub-paragraph applies if the service provider obtains actual knowledge that –
 - (a) the information at the initial source of the transmission has been removed from the network, 10
 - (b) access to it has been disabled, or
 - (c) a court or administrative authority has ordered the removal from the network of, or the disablement of access to, the information. 15
- 8 (1) A service provider does not commit an offence under paragraph 2 by storing information provided by a recipient of the service if –
 - (a) the service provider had no actual knowledge when the information was provided that it was, or contained, a prohibited publication, or 20
 - (b) on obtaining actual knowledge that the information was, or contained, a prohibited publication, the service provider promptly removed the information or disabled access to it.
- (2) Sub-paragraph (1) does not apply if the recipient of the service is acting under the authority or control of the service provider. 25

Interpretation

- 9 (1) In this Schedule –
 - “domestic service provider” means a service provider established in England and Wales;
 - “the E-Commerce Directive” means Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (Directive on electronic commerce); 30
 - “child marriage offence” means an offence under section 4 or 5; 35
 - “information society services” –
 - (a) has the meaning given in Article 2(a) of the E-Commerce Directive (which refers to Article 1(2) of Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations), and 40
 - (b) is summarised in recital 17 of the E-Commerce Directive as covering “any service normally provided for remuneration, at a distance, by means of electronic equipment for the processing (including digital compression) and storage of data, and at the individual request of a recipient of a service”; 45

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- “non-UK service provider” means a service provider established in an EEA state other than the United Kingdom;
- “programme service” has the same meaning as in the Broadcasting Act 1990 (see section 201(1) of that Act);
- “prohibited material” means any material the publication of which contravenes paragraph 1(2); 5
- “publication” includes any speech, writing, relevant programme or other communication (in whatever form) which is addressed to, or is accessible by, the public at large or any section of the public;
- “recipient”, in relation to a service, means a person who, for professional ends or otherwise, uses an information society service, in particular for the purposes of seeking information or making it accessible; 10
- “relevant programme” means a programme included in a programme service; 15
- “service provider” means a person providing an information society service.
- (2) For the purposes of the definition of “publication” in sub-paragraph (1) –
- (a) an indictment or other document prepared for use in particular legal proceedings is not to be taken as coming within the definition; 20
- (b) every relevant programme is to be taken as addressed to the public at large or to a section of the public.
- (3) For the purposes of the definitions of “domestic service provider” and “non-UK service provider” in sub-paragraph (1) –
- (a) a service provider is established in a particular part of the United Kingdom or EEA state if it – 25
- (i) effectively pursues an economic activity using a fixed establishment in that part of the United Kingdom, or that EEA state, for an indefinite period, and
- (ii) is a national of an EEA state or a company or firm mentioned in Article 54 of the Treaty on the Functioning of the European Union; 30
- (b) the presence or use in a particular place of equipment or other technical means of providing an information society service does not, of itself, constitute the establishment of a service provider; 35
- (c) where it cannot be determined from which of a number of establishments a given information society service is provided, that service is to be regarded as provided from the establishment at the centre of the service provider’s activities relating to that service.

SCHEDULE 2

Section 9

CHILD MARRIAGE PROTECTION ORDERS

Protection against child marriage: England and Wales

- 1 (1) After Part 4A of the Family Law Act 1996 insert—

“PART 4B CHILD MARRIAGE

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Child marriage protection orders

64A Child marriage protection orders

- (1) The court may make an order for the purposes of protecting a child from entering a marriage whether by force, coercion or consent.
- (2) In deciding whether to exercise its powers under this section and, if so, in what manner, the court must have regard to all the circumstances including the need to secure the health, safety and well-being of the child to be protected. 10
- (3) For the purposes of this Part a child (“A”) enters a child marriage if that child is permitted, encouraged, allowed or forced to enter a marriage by another person (“B”).
- (4) For the purposes of subsection (3) it does not matter whether the conduct of B which allows A to enter into a child marriage is directed against A or another person. 15
- (5) In this Part—
- (a) “child marriage” includes any civil, religious, customary or betrothal ceremony; 20
- (b) “child marriage protection order” means an order under this section.

64B Contents of orders

- (1) A child marriage protection order may contain— 25
- (a) such prohibitions, restrictions or requirements; and
- (b) such other terms;
- as the court considers appropriate for the purposes of the order.
- (2) The terms of such orders may, in particular, relate to—
- (a) conduct outside England and Wales as well as (or instead of) conduct within England and Wales; 30
- (b) respondents who are, or may become, involved in other respects as well as (or instead of) respondents who permit, encourage, allow or force a child to enter into a marriage;
- (c) other persons who are, or may become, involved in other respects as well as respondents of any kind. 35
- (3) For the purposes of subsection (2) examples of involvement in other respects are—
- (a) aiding, abetting, counselling, procuring, encouraging or assisting another person to allow a child to enter into a marriage;

- (b) conspiring or attempting to allow a child to enter into a marriage.

64C Applications and other occasions for making orders

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| (1) The court may make a child marriage protection order – | 5 |
| (a) on an application being made to it; or | |
| (b) without an application being made to it but in the circumstances mentioned in subsection (6). | |
| (2) An application may be made by – | |
| (a) the child who is to be protected by the order; or | 10 |
| (b) a relevant third party. | |
| (3) An application may be made by any other person with the leave of the court. | |
| (4) In deciding whether to grant leave, the court must have regard to all the circumstances including – | 15 |
| (a) the applicant’s connection with the child to be protected; | |
| (b) the applicant’s knowledge of the circumstances of the child to be protected; and | |
| (c) the wishes and feelings of the child to be protected so far as they are reasonably ascertainable and so far as the court considers it appropriate, in the light of the child’s age and understanding, to have regard to them. | 20 |
| (5) An application under this section may be made in other family proceedings or without any other family proceedings being instituted. | 25 |
| (6) The circumstances in which the court may make an order without an application being made are where – | |
| (a) any other family proceedings are before the court (“the current proceedings”); | |
| (b) the court considers that a child marriage protection order should be made to protect a child (whether or not a party to the current proceedings); and | 30 |
| (c) a person who would be a respondent to any such proceedings for a child marriage protection order is a party to the current proceedings. | |
| (7) In this section – | 35 |
| (a) “family proceedings” has the same meaning as in Part 4 (see section 63(1) and (2)) but also includes – | |
| (i) proceedings under the inherent jurisdiction of the High Court in relation to children; | |
| (ii) proceedings in which the court has made an emergency protection order under section 44 of the Children Act 1989 which includes an exclusion requirement (as defined in section 44A(3) of that Act); and | 40 |
| (iii) proceedings in which the court has made an order under section 50 of that Act (recovery of abducted children etc.); and | 45 |

(b) “relevant third party” means a person specified, or falling within a description of persons specified, by order of the Lord Chancellor.

(8) An order of the Lord Chancellor under subsection (7) may, in particular, specify the Secretary of State. 5

64D Ex parte orders

(1) The court may, in any case where it considers that it is just and convenient to do so, make a child marriage protection order even though the respondent has not been given such notice of the proceedings as would otherwise be required by rules of court. 10

(2) In deciding whether to exercise its powers under subsection (1), the court must have regard to all the circumstances including –

(a) any risk of significant harm to the child to be protected or another person if the order is not made immediately; 15

(b) whether it is likely that an applicant will be deterred or prevented from pursuing an application if an order is not made immediately; and

(c) whether there is reason to believe that –

(i) the respondent is aware of the proceedings but is deliberately evading service; and 20

(ii) the delay involved in effecting substituted service will cause serious prejudice to the child to be protected or (if a different person) an applicant.

(3) The court must give the respondent an opportunity to make representations about any order made by virtue of subsection (1). 25

(4) The opportunity must be –

(a) as soon as just and convenient; and

(b) at a hearing of which notice has been given to all the parties in accordance with rules of court. 30

64E Undertakings instead of orders

(1) The court may, subject to subsection (3), accept an undertaking from the respondent to proceedings for a child marriage protection order if it has power to make such an order.

(2) No power of arrest may be attached to an undertaking given under subsection (1). 35

(3) The court may not accept an undertaking under subsection (1) instead of making an order if a power of arrest would otherwise have been attached to the order.

(4) An undertaking given to the court under subsection (1) is enforceable as if the court had made the order in terms corresponding to those of the undertaking. 40

(5) This section is without prejudice to the powers of the court apart from this section.

64F Duration of orders

A child marriage protection order may be made for a specified period, until varied or discharged, or for the duration of the minority of the child.

64G Variation of orders and their discharge

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- (1) The court may vary or discharge a child marriage protection order on an application by –
 - (a) any party to the proceedings for the order;
 - (b) the child being protected by the order (if not a party to the proceedings for the order); or
 - (c) any person affected by the order.
- (2) In addition, the court may vary or discharge a child marriage protection order made by virtue of section 63C(1)(b) even though no application under subsection (1) above has been made to the court.
- (3) Section 64D applies to a variation of a child marriage protection order as it applies to the making of such an order.
- (4) Section 64E applies to proceedings for a variation of a child marriage protection order as it applies to proceedings for the making of such an order.
- (5) Accordingly, references in sections 64D and 64E to making a child marriage protection order are to be read for the purposes of subsections (3) and (4) above as references to varying such an order.
- (6) Subsection (7) applies if a power of arrest has been attached to provisions of a child marriage protection order by virtue of section 64H.
- (7) The court may vary or discharge the order under this section so far as it confers a power of arrest (whether or not there is a variation or discharge of any other provision of the order).

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Arrest for breach of orders

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64H Attachment of powers of arrest to orders

- (1) Subsection (2) applies if the court –
 - (a) intends to make a child marriage protection order otherwise than by virtue of section 64D; and
 - (b) considers that the respondent has used or threatened violence against the child being protected or otherwise in connection with the matters being dealt with by the order.
- (2) The court must attach a power of arrest to one or more provisions of the order unless it considers that, in all the circumstances of the case, there will be adequate protection without such a power.
- (3) Subsection (4) applies if the court –
 - (a) intends to make a child marriage protection order by virtue of section 64D; and

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- (b) considers that the respondent has used or threatened violence against the child being protected or otherwise in connection with the matters being dealt with by the order.
- (4) The court may attach a power of arrest to one or more provisions of the order if it considers that there is a risk of significant harm to a child, attributable to conduct of the respondent, if the power of arrest is not attached to the provisions immediately. 5
- (5) The court may provide for a power of arrest attached to any provisions of an order under subsection (4) to have effect for a shorter period than the other provisions of the order. 10
- (6) Any period specified for the purposes of subsection (5) may be extended by the court (on one or more occasions) on an application to vary or discharge the order.
- (7) In this section “respondent” includes any person who is not a respondent but to whom an order is directed. 15

64I Arrest under attached powers

- (1) Subsection (2) applies if a power of arrest is attached to provisions of a child marriage protection order under section 64H.
- (2) A constable may arrest without warrant a person whom the constable has reasonable cause for suspecting to be in breach of any such provision or otherwise in contempt of court in relation to the order. 20
- (3) A person arrested under subsection (2) must be brought before the relevant judge within the period of 24 hours beginning at the time of the person’s arrest. 25
- (4) In calculating any period of 24 hours for the purposes of subsection (3), Christmas Day, Good Friday and any Sunday are to be ignored.

64J Arrest under warrant

- (1) Subsection (2) applies if the court has made a child marriage protection order but – 30
- (a) no power of arrest is attached to any provision of the order under section 64H;
- (b) such a power is attached only to certain provisions of the order; or
- (c) such a power was attached for a shorter period than other provisions of the order and that period has expired. 35
- (2) An interested party may apply to the relevant judge for the issue of a warrant for the arrest of a person if the interested party considers that the person has failed to comply with the order or is otherwise in contempt of court in relation to the order. 40
- (3) The relevant judge must not issue a warrant on an application under subsection (2) unless –
- (a) the application is substantiated on oath; and
- (b) the relevant judge has reasonable grounds for believing that the person to be arrested has failed to comply with the order or is otherwise in contempt of court in relation to the order. 45

- (4) In this section “interested party”, in relation to a child marriage protection order, means –
- (a) the child being protected by the order;
 - (b) (if a different person) the person who applied for the order; or
 - (c) any other person;
- 5
- but no application may be made under subsection (2) by a person falling within paragraph (c) without the leave of the relevant judge.

64K Remand: general

- (1) The court before which an arrested person is brought under section 63I(3) or by virtue of a warrant issued under section 64J may, if the matter is not then disposed of immediately, remand the person concerned. 10
- (2) Schedule 5 has effect in relation to the powers of the court to remand a person by virtue of this section but as if the following modifications were made to the Schedule. 15
- (3) The modifications are that –
- (a) in paragraph 2(1), the reference to section 47 is to be read as a reference to this section; and
 - (b) in paragraph 2(5)(b), the reference to section 48(1) is to be read as a reference to section 64L(1). 20
- (4) Subsection (5) applies if a person remanded under this section is granted bail under Schedule 5 as modified above.
- (5) The person may be required by the relevant judge to comply, before release on bail or later, with such requirements as appear to the relevant judge to be necessary to secure that the person does not interfere with witnesses or otherwise obstruct the course of justice. 25

64L Remand: medical examination and report

- (1) Any power to remand a person under section 64K(1) may be exercised for the purpose of enabling a medical examination and report to be made if the relevant judge has reason to consider that a medical report will be required. 30
- (2) If such a power is so exercised, the adjournment must not be for more than 4 weeks at a time unless the relevant judge remands the accused in custody.
- (3) If the relevant judge remands the accused in custody, the adjournment must not be for more than 3 weeks at a time. 35
- (4) Subsection (5) applies if there is reason to suspect that a person who has been arrested –
- (a) under section 64I(2); or
 - (b) under a warrant issued on an application made under section 64J(2);
- 40
- is suffering from mental illness or severe mental impairment.
- (5) The relevant judge has the same power to make an order under section 35 of the Mental Health Act 1983 (remand for report on accused’s mental condition) as the Crown Court has under section 35 45

of that Act in the case of an accused person within the meaning of that section.

Jurisdiction and procedure

64M Jurisdiction of courts

- (1) For the purposes of this Part “the court” means the High Court or a county court. 5
- (2) Subsection (1) is subject to any provision made by virtue of subsections (3) and (4).
- (3) Section 57(3) to (12) (allocation of proceedings to courts etc.) apply for the purposes of this Part as they apply for the purposes of Part 4 but as if the following modification were made. 10
- (4) The modification is that section 57(8) is to be read as if there were substituted for it—
 - “(8) For the purposes of subsections (3), (4) and (5), there are two levels of court— 15
 - (a) the High Court; and
 - (b) any county court.”

64N Contempt proceedings

The powers of the court in relation to contempt of court arising out of a person’s failure to comply with a child marriage protection order or otherwise in connection with such an order may be exercised by the relevant judge. 20

64O Guidance

- (1) The Secretary of State may from time to time prepare and publish guidance to such descriptions of persons as the Secretary of State considers appropriate about— 25
 - (a) the effect of this Part or any provision of this Part; or
 - (b) other matters relating to forced marriages.
- (2) A person exercising public functions to whom guidance is given under this section must have regard to it in the exercise of those functions. 30
- (3) Nothing in this section permits the Secretary of State to give guidance to any court or tribunal.

64P Other protection or assistance against child marriage

- (1) This Part does not affect any other protection or assistance available to a child who— 35
 - (a) is entering or may be entering into a marriage or subjected to an attempt to enter into a marriage; or
 - (b) has entered into a marriage.
- (2) In particular, it does not affect— 40
 - (a) the inherent jurisdiction of the High Court;
 - (b) any criminal liability;

- (c) any civil remedies under the Protection from Harassment Act 1997;
- (d) any right to an occupation order or a non-molestation order under Part 4 of this Act;
- (e) any protection or assistance under the Children Act 1989; 5
- (f) any claim in tort; or
- (g) the law of marriage.

64Q Interpretation of Part 4B

In this Part –

- “the court” is to be read with section 64M; 10
- “child” is a person who is under the age of eighteen;
- “child marriage protection order” has the meaning given by section 64A(5);
- “marriage” means any religious, customary, betrothal or civil ceremony of marriage (whether or not legally binding); and 15
- “the relevant judge”, in relation to any order under this Part, means –
 - (a) where the order was made by the High Court, a judge of that court; and
 - (b) where the order was made by a county court, a judge or district judge of that or any other county court.” 20

Marriage and Civil Partnership (Minimum Age) Bill [HL]

A

B I L L

To revoke parental or judicial consent which permits the marriage or civil partnership of a child and to criminalise child marriage or civil partnership under the age of 18; and for connected purposes.

Baroness Hussein-Ece

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