



Protection of Freedoms Act 2012

2012 CHAPTER 9

PART 7

MISCELLANEOUS AND GENERAL

Trafficking people for exploitation

109 Trafficking people for sexual exploitation

- (1) The Sexual Offences Act 2003 is amended as follows.
- (2) For sections 57 to 59 (trafficking people for sexual exploitation) substitute—

“59A Trafficking people for sexual exploitation

- (1) A person (“A”) commits an offence if A intentionally arranges or facilitates—
 - (a) the arrival in, or entry into, the United Kingdom or another country of another person (“B”),
 - (b) the travel of B within the United Kingdom or another country, or
 - (c) the departure of B from the United Kingdom or another country,with a view to the sexual exploitation of B.
- (2) For the purposes of subsection (1)(a) and (c) A’s arranging or facilitating is with a view to the sexual exploitation of B if, and only if—
 - (a) A intends to do anything to or in respect of B, after B’s arrival, entry or (as the case may be) departure but in any part of the world, which if done will involve the commission of a relevant offence, or
 - (b) A believes that another person is likely to do something to or in respect of B, after B’s arrival, entry or (as the case may be) departure but in any part of the world, which if done will involve the commission of a relevant offence.

Status: This is the original version (as it was originally enacted).

- (3) For the purposes of subsection (1)(b) A's arranging or facilitating is with a view to the sexual exploitation of B if, and only if—
- (a) A intends to do anything to or in respect of B, during or after the journey and in any part of the world, which if done will involve the commission of a relevant offence, or
 - (b) A believes that another person is likely to do something to or in respect of B, during or after the journey and in any part of the world, which if done will involve the commission of a relevant offence.
- (4) A person who is a UK national commits an offence under this section regardless of—
- (a) where the arranging or facilitating takes place, or
 - (b) which country is the country of arrival, entry, travel or (as the case may be) departure.
- (5) A person who is not a UK national commits an offence under this section if—
- (a) any part of the arranging or facilitating takes place in the United Kingdom, or
 - (b) the United Kingdom is the country of arrival, entry, travel or (as the case may be) departure.
- (6) A person guilty of an offence under this section is liable—
- (a) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum or both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 14 years.
- (7) In relation to an offence committed before the commencement of section 154(1) of the Criminal Justice Act 2003, the reference in subsection (6) (a) to 12 months is to be read as a reference to 6 months.”
- (3) For subsection (1) of section 60 (sections 57 to 59: interpretation) substitute—
- “(1) In section 59A—
- “country” includes any territory or other part of the world;
- “relevant offence” means—
- (a) any offence under the law of England and Wales which is an offence under this Part or under section 1(1)(a) of the Protection of Children Act 1978, or
 - (b) anything done outside England and Wales which is not an offence within paragraph (a) but would be if done in England and Wales;
- “UK national” means—
- (a) a British citizen,
 - (b) a person who is a British subject by virtue of Part 4 of the British Nationality Act 1981 and who has the right of abode in the United Kingdom, or
 - (c) a person who is a British overseas territories citizen by virtue of a connection with Gibraltar.”
- (4) Omit section 60(2) (sections 57 to 59: jurisdiction).

(5) Accordingly, the title of section 60 becomes “Section 59A: interpretation”.

110 Trafficking people for labour and other exploitation

(1) The Asylum and Immigration (Treatment of Claimants, etc) Act 2004 is amended as follows.

(2) For subsections (1) to (3) of section 4 (trafficking people for labour and other exploitation) substitute—

“(1A) A person (“A”) commits an offence if A intentionally arranges or facilitates—

- (a) the arrival in, or entry into, the United Kingdom or another country of another person (“B”),
- (b) the travel of B within the United Kingdom or another country, or
- (c) the departure of B from the United Kingdom or another country,

with a view to the exploitation of B.

(1B) For the purposes of subsection (1A)(a) and (c) A’s arranging or facilitating is with a view to the exploitation of B if (and only if)—

- (a) A intends to exploit B, after B’s arrival, entry or (as the case may be) departure but in any part of the world, or
- (b) A believes that another person is likely to exploit B, after B’s arrival, entry or (as the case may be) departure but in any part of the world.

(1C) For the purposes of subsection (1A)(b) A’s arranging or facilitating is with a view to the exploitation of B if (and only if)—

- (a) A intends to exploit B, during or after the journey and in any part of the world, or
- (b) A believes that another person is likely to exploit B, during or after the journey and in any part of the world.”

(3) In section 4(4)—

- (a) in paragraph (b)—
 - (i) omit “under the Human Organ Transplants Act 1989 (c. 31) or”, and
 - (ii) after “2004” insert “as it has effect in the law of England and Wales”,
- (b) in that paragraph, the words from “as a result” to the end of the paragraph become sub-paragraph (i), and
- (c) after that sub-paragraph insert “or
 - (ii) which, were it done in England and Wales, would constitute an offence within sub-paragraph (i),”.

(4) After section 4(4) insert—

“(4A) A person who is a UK national commits an offence under this section regardless of—

- (a) where the arranging or facilitating takes place, or
- (b) which country is the country of arrival, entry, travel or (as the case may be) departure.

(4B) A person who is not a UK national commits an offence under this section if—

- (a) any part of the arranging or facilitating takes place in the United Kingdom, or

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

- (b) the United Kingdom is the country of arrival, entry, travel or (as the case may be) departure.”
- (5) Omit section 5(1) (section 4: jurisdiction).
- (6) In section 5(3) (section 4: interpretation)—
 - (a) for “In section 4(4)(a)” substitute “In section 4—
“country” includes any territory or other part of the world,”
 - (b) the words from ““the Human Rights Convention” to the end of the subsection become the next definition in a list, and
 - (c) after that definition insert—
““UK national” means—
 - (a) a British citizen,
 - (b) a person who is a British subject by virtue of Part 4 of the British Nationality Act 1981 and who has the right of abode in the United Kingdom, or
 - (c) a person who is a British overseas territories citizen by virtue of a connection with Gibraltar.”

Stalking

111 Offences in relation to stalking

- (1) After section 2 of the Protection from Harassment Act 1997 (offence of harassment) insert—

“2A Offence of stalking

- (1) A person is guilty of an offence if—
 - (a) the person pursues a course of conduct in breach of section 1(1), and
 - (b) the course of conduct amounts to stalking.
- (2) For the purposes of subsection (1)(b) (and section 4A(1)(a)) a person’s course of conduct amounts to stalking of another person if—
 - (a) it amounts to harassment of that person,
 - (b) the acts or omissions involved are ones associated with stalking, and
 - (c) the person whose course of conduct it is knows or ought to know that the course of conduct amounts to harassment of the other person.
- (3) The following are examples of acts or omissions which, in particular circumstances, are ones associated with stalking—
 - (a) following a person,
 - (b) contacting, or attempting to contact, a person by any means,
 - (c) publishing any statement or other material—
 - (i) relating or purporting to relate to a person, or
 - (ii) purporting to originate from a person,
 - (d) monitoring the use by a person of the internet, email or any other form of electronic communication,
 - (e) loitering in any place (whether public or private),
 - (f) interfering with any property in the possession of a person,

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

- (g) watching or spying on a person.
 - (4) A person guilty of an offence under this section is liable on summary conviction to imprisonment for a term not exceeding 51 weeks, or a fine not exceeding level 5 on the standard scale, or both.
 - (5) In relation to an offence committed before the commencement of section 281(5) of the Criminal Justice Act 2003, the reference in subsection (4) to 51 weeks is to be read as a reference to six months.
 - (6) This section is without prejudice to the generality of section 2.”
- (2) After section 4 of that Act (putting people in fear of violence) insert—

“4A Stalking involving fear of violence or serious alarm or distress

- (1) A person (“A”) whose course of conduct—
 - (a) amounts to stalking, and
 - (b) either—
 - (i) causes another (“B”) to fear, on at least two occasions, that violence will be used against B, or
 - (ii) causes B serious alarm or distress which has a substantial adverse effect on B’s usual day-to-day activities,is guilty of an offence if A knows or ought to know that A’s course of conduct will cause B so to fear on each of those occasions or (as the case may be) will cause such alarm or distress.
- (2) For the purposes of this section A ought to know that A’s course of conduct will cause B to fear that violence will be used against B on any occasion if a reasonable person in possession of the same information would think the course of conduct would cause B so to fear on that occasion.
- (3) For the purposes of this section A ought to know that A’s course of conduct will cause B serious alarm or distress which has a substantial adverse effect on B’s usual day-to-day activities if a reasonable person in possession of the same information would think the course of conduct would cause B such alarm or distress.
- (4) It is a defence for A to show that—
 - (a) A’s course of conduct was pursued for the purpose of preventing or detecting crime,
 - (b) A’s course of conduct was pursued under any enactment or rule of law or to comply with any condition or requirement imposed by any person under any enactment, or
 - (c) the pursuit of A’s course of conduct was reasonable for the protection of A or another or for the protection of A’s or another’s property.
- (5) A person guilty of an offence under this section is liable—
 - (a) on conviction on indictment, to imprisonment for a term not exceeding five years, or a fine, or both, or
 - (b) on summary conviction, to imprisonment for a term not exceeding twelve months, or a fine not exceeding the statutory maximum, or both.

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

- (6) In relation to an offence committed before the commencement of section 154(1) of the Criminal Justice Act 2003, the reference in subsection (5) (b) to twelve months is to be read as a reference to six months.
- (7) If on the trial on indictment of a person charged with an offence under this section the jury find the person not guilty of the offence charged, they may find the person guilty of an offence under section 2 or 2A.
- (8) The Crown Court has the same powers and duties in relation to a person who is by virtue of subsection (7) convicted before it of an offence under section 2 or 2A as a magistrates' court would have on convicting the person of the offence.
- (9) This section is without prejudice to the generality of section 4.”

112 Power of entry in relation to stalking

After section 2A of the Protection from Harassment Act 1997 (for which see section 111) insert—

“2B Power of entry in relation to offence of stalking

- (1) A justice of the peace may, on an application by a constable, issue a warrant authorising a constable to enter and search premises if the justice of the peace is satisfied that there are reasonable grounds for believing that—
 - (a) an offence under section 2A has been, or is being, committed,
 - (b) there is material on the premises which is likely to be of substantial value (whether by itself or together with other material) to the investigation of the offence,
 - (c) the material—
 - (i) is likely to be admissible in evidence at a trial for the offence, and
 - (ii) does not consist of, or include, items subject to legal privilege, excluded material or special procedure material (within the meanings given by sections 10, 11 and 14 of the Police and Criminal Evidence Act 1984), and
 - (d) either—
 - (i) entry to the premises will not be granted unless a warrant is produced, or
 - (ii) the purpose of a search may be frustrated or seriously prejudiced unless a constable arriving at the premises can secure immediate entry to them.
- (2) A constable may seize and retain anything for which a search has been authorised under subsection (1).
- (3) A constable may use reasonable force, if necessary, in the exercise of any power conferred by virtue of this section.
- (4) In this section “premises” has the same meaning as in section 23 of the Police and Criminal Evidence Act 1984.”

Miscellaneous repeals of enactments

113 Repeal of provisions for conducting certain fraud cases without jury

Omit section 43 of the Criminal Justice Act 2003 (applications by prosecution for certain fraud cases to be conducted without a jury).

114 Removal of restrictions on times for marriage or civil partnership

- (1) In the Marriage Act 1949—
 - (a) omit section 4 (solemnization of marriages to take place at any time between 8 a.m. and 6 p.m.), and
 - (b) omit section 75(1)(a) (offence of solemnizing a marriage outside the permitted hours).
- (2) In section 16(4) of the Marriage (Registrar General's Licence) Act 1970 (disapplication of certain provisions of the Act of 1949) for “sections 75(1)(a) and” substitute “section”.
- (3) In section 17(2) of the Civil Partnership Act 2004 (registration as civil partners under the standard procedure to take place on any day in the applicable period between 8 a.m. and 6 p.m.)—
 - (a) for “on any day in” substitute “at any time during”, and
 - (b) omit “between 8 o'clock in the morning and 6 o'clock in the evening”.
- (4) Omit section 31(2)(ab) of that Act (offence of officiating at the signing of a civil partnership schedule outside the permitted hours).

General

115 Consequential amendments, repeals and revocations

- (1) Schedule 9 (consequential amendments) has effect.
- (2) The provisions listed in Schedule 10 are repealed or (as the case may be) revoked to the extent specified.
- (3) The Secretary of State may by order make such provision as the Secretary of State considers appropriate in consequence of this Act.
- (4) The power to make an order under subsection (3)—
 - (a) is exercisable by statutory instrument,
 - (b) includes power to make transitional, transitory or saving provision,
 - (c) may, in particular, be exercised by amending, repealing, revoking or otherwise modifying any provision made by or under an enactment (including any Act passed in the same Session as this Act).
- (5) Subject to subsection (6), a statutory instrument containing an order 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.

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

(6) A statutory instrument containing an order under this section which neither amends nor repeals any provision of primary legislation is subject to annulment in pursuance of a resolution of either House of Parliament.

(7) In this section—

“enactment” includes an Act of the Scottish Parliament, a Measure or Act of the National Assembly for Wales and Northern Ireland legislation,

“primary legislation” means—

- (a) a public general Act,
- (b) an Act of the Scottish Parliament,
- (c) a Measure or Act of the National Assembly for Wales, and
- (d) Northern Ireland legislation.

116 Transitional, transitory or saving provision

(1) The Secretary of State may by order made by statutory instrument make such transitional, transitory or saving provision as the Secretary of State considers appropriate in connection with the coming into force of any provision of this Act (other than Chapter 1 of Part 1 and any Welsh provision).

(2) The Welsh Ministers may by order made by statutory instrument make such transitional, transitory or saving provision as the Welsh Ministers consider appropriate in connection with the coming into force of any Welsh provision.

(3) In this section “Welsh provision” means any provision of this Act so far as it falls within section 120(3).

117 Financial provisions

(1) There is to be paid out of money provided by Parliament—

- (a) any expenditure incurred by a Minister of the Crown by virtue of this Act, and
- (b) any increase attributable to this Act in the sums payable by virtue of any other Act out of money so provided.

(2) There is to be paid into the Consolidated Fund any sums received by a Minister of the Crown by virtue of this Act.

118 Channel Islands and Isle of Man

Her Majesty may by Order in Council provide for any of the provisions of—

- (a) Chapters 1 to 3 of Part 5 (and Parts 6 to 8 of Schedule 9 and Parts 5 and 6 of Schedule 10), or
- (b) section 110 (and Part 10 of Schedule 9, and Part 9 of Schedule 10, so far as relating to the Asylum and Immigration (Treatment of Claimants, etc) Act 2004),

to extend, with or without modifications, to any of the Channel Islands or to the Isle of Man.

119 Extent

(1) The following provisions extend to England and Wales only—

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

- (a) sections 1 to 18, 23 and 24,
 - (b) Chapter 2 of Part 1,
 - (c) Chapter 1 of Part 2,
 - (d) section 53 and Schedule 3,
 - (e) Chapter 2 of Part 3,
 - (e) Chapter 1 of Part 5 (excluding section 78 and Schedule 7),
 - (f) Chapter 2 of Part 5 (excluding section 86),
 - (g) Chapter 4 of Part 5,
 - (h) sections 109 to 114,
 - (i) Parts 4, 6, 7 and 9 to 12 of Schedule 9 (subject to subsections (2), (3), (5) and (8)(k) and (m)),
 - (j) Parts 3, 5, 6 and 9 to 11 of Schedule 10 (subject to subsections (3), (5) and (8)(m)), and
 - (k) any provision which extends to England and Wales only by virtue of subsection (6) or (7).
- (2) The following provisions extend to England and Wales and Scotland only—
- (a) paragraph 119(a) of Schedule 9,
 - (b) the repeal of section 22 of the Crime and Security Act 2010 in paragraph 4(2) of Schedule 9 and Part 1 of Schedule 10, and
 - (c) any provision which extends to England and Wales and Scotland only by virtue of subsection (6) or (7).
- (3) The following provisions extend to England and Wales and Northern Ireland only—
- (a) Part 2 of Schedule 1,
 - (b) Chapter 3 of Part 5 (excluding paragraph 5(3) of Schedule 8 and section 91),
 - (c) in Part 6 of Schedule 9 and Part 5 of Schedule 10, the amendments and repeals in respect of—
 - (i) the Police Act 1997 (excluding sections 113A(10) and 113B(13) of that Act), and
 - (ii) paragraph 14(7)(c) of Schedule 9 to the Safeguarding Vulnerable Groups Act 2006, and
 - (d) any provision which extends to England and Wales and Northern Ireland only by virtue of subsection (7).
- (4) The following provisions extend to Scotland only—
- (a) Part 5 of Schedule 1, and
 - (b) any provision which extends to Scotland only by virtue of subsection (7).
- (5) The following provisions extend to Northern Ireland only—
- (a) Part 6 of Schedule 1,
 - (b) section 63 and Schedule 6,
 - (c) section 78 and Schedule 7,
 - (d) in Part 6 of Schedule 9 and Part 5 of Schedule 10, the amendments, repeals and revocations in respect of—
 - (i) the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007 (S.I. 2007/1351 (N.I. 11)) and any order made under that Order,

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

- (ii) Part 3 of Schedule 5 to the Health Care and Associated Professions (Miscellaneous Amendments and Practitioner Psychologists) Order 2009 (S.I. 2009/1182), and
 - (iii) sections 90 and 92 of the Policing and Crime Act 2009, and
 - (e) any provision which extends to Northern Ireland only by virtue of subsection (7).
- (6) The following provisions have the extent provided for in those provisions—
- (a) Schedule 2 (see each paragraph), and
 - (b) Part 2 of Schedule 10 (see the notes to that Part).
- (7) The amendments, repeals and revocations made by Parts 1 and 5 of Schedule 9 and Parts 1 and 4 of Schedule 10 have (subject to subsection (2)(b)) the same extent as the enactment amended, repealed or revoked.
- (8) The following provisions extend to England and Wales, Scotland and Northern Ireland—
- (a) sections 19 to 22 (excluding Parts 2, 5 and 6 of Schedule 1) and 25,
 - (b) Chapter 2 of Part 2,
 - (c) Chapter 1 of Part 3 (excluding section 53 and Schedules 2 and 3),
 - (d) Part 4 (excluding section 63 and Schedule 6),
 - (e) section 86,
 - (f) paragraph 5(3) of Schedule 8,
 - (g) section 91,
 - (h) Part 6,
 - (i) sections 115 to 117 (excluding Schedules 9 and 10), this section and sections 120 and 121,
 - (j) Parts 2, 3 and 8 of Schedule 9,
 - (k) the amendments of Schedule 1 to the Criminal Justice and Police Act 2001, and Schedule 5 to the Sexual Offences Act 2003, in Part 11 of Schedule 9,
 - (l) Parts 7 and 8 of Schedule 10,
 - (m) the repeal of section 330(5)(b) of the Criminal Justice Act 2003 in Part 12 of Schedule 9 and Part 10 of Schedule 10, and
 - (n) any provision which extends to England and Wales, Scotland and Northern Ireland by virtue of subsection (6) or (7).

120 Commencement

- (1) Subject as follows, this Act comes into force on such day as the Secretary of State may by order made by statutory instrument appoint; and different days may be appointed for different purposes.
- (2) The provisions mentioned in subsection (3) come into force on such day as the Welsh Ministers may by order made by statutory instrument appoint; and different days may be appointed for different purposes.
- (3) The provisions are—
- (a) Chapter 2 of Part 1 so far as relating to schools in Wales and further education institutions in Wales,
 - (b) sections 39(1), 40, 41 and 43 to 46 so far as they confer functions on the Welsh Ministers,

- (c) section 53 and Schedule 3, and
 - (d) section 56 and Schedule 4 so far as relating to land in Wales.
- (4) The following provisions come into force at the end of the period of two months beginning with the day on which this Act is passed—
- (a) section 39(2) and Schedule 2, and
 - (b) Part 2 of Schedule 10 (and section 115(2) so far as relating to that Part of that Schedule).
- (5) The following provisions come into force on the day on which this Act is passed—
- (a) sections 88 to 91,
 - (b) section 113, Part 12 of Schedule 9 and Part 10 of Schedule 10 (and section 115(1) and (2) so far as relating to those Parts of those Schedules), and
 - (c) sections 115(3) to (7) and 116 to 119, this section and section 121.

121 Short title

This Act may be cited as the Protection of Freedoms Act 2012.