



Sexual Offences and Obscene Publications Bill 2019: Offences and Penalties

RESEARCH PAPER

ISSUED 08/07/2020

For: Mrs Lord-Brennan MLC

Request: to produce a list of the offences and related in penalties in Parts 2,3,4 and 6 of the Sexual Offences and Obscene Publications Bill with a list of current corresponding or similar offences and their respective penalties.

This paper was laid before the Legislative Council by the requester on [27th October 2020](#).

BACKGROUND INFORMATION

This research uses the version of the Sexual Offences and Obscene Publications Bill 2019 as amended by the House of Keys and presented for consideration to the Legislative Council. This version of the Bill can be viewed on the Tynwald website [here](#). Potential corresponding offences under current legislation are based on the most recent versions of active legislation as presented on the [legislation.gov.im](#) website.

Please note that potential corresponding offences have been included where some or all of that offence is or could be contained in the offences to be introduced by the Bill. In some instances, the potential corresponding offence appears to vary significantly to the offence under the Bill in regard to the central focus or purpose of the provision; however, these have been included to demonstrate potential courses of action that appear to be options that could be taken to seek conviction of a person for an offence that is not currently fully provided for. Descriptions of how individual offences are or would be committed have been included purely as an aid for comparison and do not necessarily cover all eventualities, exceptions, defences etc.

Any references to fines are in relation to the standard scale as provided in s.55 of the [Interpretation Act 2015](#). Where, for maximum penalties under existing legislation, the amount of a fine is given, it is to be read as follows – (fine amount as specified in the original legislation / fine amount since 1st January 2018 in accordance with the standard scale). Further information about changes to fines can be found on the [legislation.gov.im](#) website.

CONTACT

Author: Inge Perry

The research team in the Chamber and Information Service can be contacted by emailing research@tynwald.org.im.

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LIST OF OFFENCES AND PENALTIES UNDER PARTS 2,3,4 AND 6 OF THE SEXUAL OFFENCES AND OBSCENE PUBLICATIONS BILL (AS AMENDED IN THE KEYS)

SEXUAL OFFENCES AND OBSCENE PUBLICATIONS BILL				EXISTING LEGISLATION			ADDITIONAL COMMENTS
PART DIVISION	SECTION (CLAUSE)	OFFENCE	MAXIMUM PENALTY	ACT SECTION	(POTENTIAL) CORRESPONDING OFFENCE(S)	CORRESPONDING MAXIMUM PENALTY	
2.1	4	<p align="center"><u>Rape</u></p> <p>An offence is committed by A by intentionally penetrating the vagina, anus or mouth of B with A's penis; without B's consent; and without A having reasonable belief that B consents. (s.93 applies to include deceit as to nature of the act and inducement by impersonation as conclusive presumptions for lack of consent)</p>	On information - custody for life	Sexual Offences Act 1992 <u>1</u> - s.1 <u>2</u> - s.13	<p><u>1 - Where there is penetration of the anus or vagina:</u> Rape When a man commits a sexual act with a person who does not consent and with knowledge of, or recklessness as to, the lack of consent; includes inducement by impersonation.</p> <p><u>2 - Where there is penetration of the mouth:</u> Indecent assault An offence is committed by A by making an indecent assault on B. Where B is aged under 16, consent cannot be deemed to have been given; however, this does not apply where A does not know, and has no reason to suspect, that B is aged under 16.</p>	<p><u>1 - Rape</u> On information - imprisonment for life</p> <p><u>2 - Indecent assault</u> On information - imprisonment not exceeding 7 years</p>	Any reference under the SOA to a "sexual act" is to mean sexual intercourse or buggery only. Both contain the provision that marriage does not automatically result in consent - the SOA applies only to married women - the SOOP Bill extends this to civil partnerships and same-sex relationships
2.2	5	<p align="center"><u>Assault by penetration</u></p> <p>An offence is committed by A by intentionally sexually penetrating the vagina or anus of B with any part of A's body or other object; without B's consent; and without A having reasonable belief that B consents. (s.93 applies to include deceit as to nature of the act and inducement by impersonation as conclusive presumptions for lack of consent)</p>	On information - custody for life	Sexual Offences Act 1992 s.13	<p align="center"><u>Indecent assault</u></p> <p>An offence is committed by A by making an indecent assault on B. Where B is aged under 16, consent cannot be deemed to have been given; however, this does not apply where A does not know, and has no reason to suspect, that B is aged under 16.</p>	On information - imprisonment not exceeding 7 years	Note the lack of need for <i>reasonable belief</i> under SOA
2.2	6	<p align="center"><u>Sexual assault</u></p> <p>An offence is committed by A by intentionally sexually touching B without B's consent and without A having reasonable belief that B consents. (s.93 applies to include deceit as to nature of the act and inducement by impersonation as conclusive presumptions for lack of consent)</p>	On information - 10 years' custody Summary - 12 months' custody or a level 5 fine or both	Sexual Offences Act 1992 s.13	<p align="center"><u>Indecent assault</u></p> <p>An offence is committed by A by making an indecent assault on B. Where B is aged under 16, consent cannot be deemed to have been given; however, this does not apply where A does not know, and has no reason to suspect, that B is aged under 16.</p>	On information - imprisonment not exceeding 7 years	Note the lack of need for <i>reasonable belief</i> under SOA
2.3	7	<p align="center"><u>Causing a person to engage in sexual activity without consent</u></p> <p>An offence is committed by A by intentionally causing B to engage in sexual activity without B's consent and without A having reasonable belief that B consents. <u>S.7(4) applies</u> where the activity involves penetration of B's anus or vagina; penetration of B's mouth with A's penis; penetration of any person's anus or vagina by any part of B's body or other object; or penetration of any person's mouth by B's penis. (s.93 applies to include deceit as to nature of the act and inducement by impersonation as conclusive presumptions for lack of consent)</p>	<p align="center"><u>Where s.7(4) applies:</u> On information - custody for life <u>Where s.7(4) does not apply:</u> On information - 10 years' custody Summary - 12 months' custody or a level 5 fine or both</p>	Sexual Offences Act 1992 s.2	<p align="center"><u>Procurement by threats or lies</u></p> <p>An offence is committed by A by procuring B to commit a sexual act anywhere in the world, either by threats or intimidation, or by false pretences or false representation.</p>	On information - imprisonment not exceeding 7 years	Any reference under the SOA to a "sexual act" is to mean sexual intercourse or buggery only.
2.4	8	<p align="center"><u>Rape of a child under 13</u></p> <p>An offence is committed by A by intentionally penetrating the vagina, anus or mouth of B, who is aged under 13, with A's penis.</p>	On information - custody for life	Sexual Offences Act 1992 <u>1</u> - s.4(1) <u>2</u> - s.9 <u>3</u> - s.14	<p><u>1 - Where there is penetration of a vagina:</u> Intercourse with young person An offence is committed by A by having sexual intercourse with B, who is aged under 13.</p> <p><u>2 - Where there is penetration of the anus:</u> Unnatural offences An offence is committed by A, who is aged 16 or over, by committing buggery with B, who is aged under 16.</p> <p><u>3 - Where there is penetration of the mouth:</u> Indecency with children An offence is committed by A by inciting or procuring B, who is aged under 16, to commit an act of gross indecency with A or any other person. An offence is committed by A by committing an act of gross indecency with or towards B, who is aged under 16.</p>	<p><u>1 - Intercourse with young person</u> On information - imprisonment for life</p> <p><u>2 - Unnatural offences</u> On information - imprisonment for life</p> <p><u>3 - Indecency with children</u> On information - imprisonment not exceeding 7 years</p>	Where there is penetration of the mouth, <u>s.13 SOA Indecent assault</u> could be a potential alternative charge, which carries the same maximum penalty; however, consent by B could negate the offence where A does not know, or has no reason to suspect, that B is aged under 16.

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PART . DIVISION	SECTION (CLAUSE)	OFFENCE	MAXIMUM PENALTY	ACT SECTION	(POTENTIAL) CORRESPONDING OFFENCE(S)	CORRESPONDING MAXIMUM PENALTY	
2 . 4	9	<p>Assault of a child under 13 by penetration</p> <p>An offence is committed by A by intentionally sexually penetrating the vagina or anus B, who is aged under 13, with any part of A's body or other object.</p>	On information - custody for life	Sexual Offences Act 1992 <u>1</u> - s.4(1) <u>2</u> - s.14 <u>3</u> - s.9	<p><u>1 - Where the penetration amounts to sexual intercourse:</u> Intercourse with young person</p> <p>An offence is committed by A by having sexual intercourse with B, who is aged under 13.</p> <p><u>2 - Where the penetration does not amount to sexual intercourse:</u> Indecency with children</p> <p>An offence is committed by A by inciting or procuring B, who is aged under 16, to commit an act of gross indecency with A or any other person. An offence is committed by A by committing an act of gross indecency with or towards B, who is aged under 16.</p> <p><u>3 - Where there is penetration of the anus:</u> Unnatural offences</p> <p>An offence is committed by A, who is aged 16 or over, by committing buggery with B, who is aged under 16.</p>	<p><u>1 - Intercourse with young person</u> On information - imprisonment for life</p> <p><u>2 - Indecency with children</u> On information - imprisonment not exceeding 7 years</p> <p><u>3 - Unnatural offences</u> On information - imprisonment for life</p>	Where the penetration does not amount to sexual intercourse, <u>s.13 SOA Indecent assault</u> could be a potential alternative charge, which carries the same maximum penalty; however, consent by B could negate the offence where A does not know, or has no reason to suspect, that B is aged under 16.
2 . 4	10	<p>Sexual assault of a child under 13</p> <p>An offence is committed by A by intentionally sexually touching B, who is aged under 13.</p>	On information - 14 years' custody Summary - 12 months' custody or a level 5 fine or both	Sexual Offences Act 1992 s.14	<p>Indecency with children</p> <p>An offence is committed by A by inciting or procuring B, who is aged under 16, to commit an act of gross indecency with A or any other person. An offence is committed by A by committing an act of gross indecency with or towards B, who is aged under 16.</p>	On information - imprisonment not exceeding 7 years	<u>s.13 SOA Indecent assault</u> could be a potential alternative charge, which carries the same maximum penalty; however, consent by B could negate the offence where A does not know, or has no reason to suspect, that B is aged under 16.
2 . 4	11	<p>Causing or inciting a child under 13 to engage in sexual activity</p> <p>An offence is committed by A by intentionally causing or inciting B, who is aged under 13, to engage in sexual activity.</p> <p><u>S.11(2) applies</u> where the activity involves penetration of B's anus or vagina; penile penetration of B's mouth by any person; penetration of any person's anus or vagina by any part of B's body or other object; or penetration of any person's mouth by B's penis.</p>	<p><u>Where s.11(2) applies:</u> On information - custody for life</p> <p><u>Where s.11(2) does not apply:</u> On information - 14 years' custody Summary - 12 months' custody or a level 5 fine or both</p>	Sexual Offences Act 1992 <u>1</u> - s.18 <u>2</u> - s.14	<p><u>1 - Where a sexual act has been committed:</u> Procurement of young person</p> <p>An offence is committed by A by procuring B, who is aged under 18, to commit a sexual act anywhere in the world.</p> <p><u>2 - Where a sexual act has not been committed:</u> Indecency with children</p> <p>An offence is committed by A by inciting or procuring B, who is aged under 16, to commit an act of gross indecency with A or any other person. An offence is committed by A by committing an act of gross indecency with or towards B, who is aged under 16.</p>	<p><u>1 - Procurement of young person</u> On information - imprisonment not exceeding 7 years</p> <p><u>2 - Indecency with children</u> On information - imprisonment not exceeding 7 years</p>	Any reference under the SOA to a "sexual act" is to mean sexual intercourse or buggery only.
2 . 5	12	<p>Sexual activity with a child</p> <p>An offence is committed by A, who is aged 18 or over, by intentionally sexually touching B. This offence applies where B is either aged under 16, and A does not reasonably believe B to be 16 or over; or aged under 13.</p> <p><u>S.12(3) applies</u> where the touching involves penetration of B's anus or vagina with any part of A's body or other object; penetration of B's mouth with A's penis; penetration of A's anus or vagina with any part of B's body or other object; or penetration of A's mouth with the B's penis.</p>	<p><u>Where s.12(3) applies:</u> On information - 14 years' custody</p> <p><u>Where s.12(3) does not apply:</u> On information - 14 years' custody Summary - 12 months' custody or a level 5 fine or both</p>	Sexual Offences Act 1992 <u>1</u> - s.4 <u>2</u> - s.14 <u>3</u> - s.9	<p><u>1 - Where the penetration amounts to sexual intercourse:</u> Intercourse with young person</p> <p>(s.4(1)) An offence is committed by A by having sexual intercourse with B, who is aged under 13.</p> <p>(s.4(2)) An offence is committed by A by having sexual intercourse with B, who is aged under 16; this does not apply where A does not know, and has no reason to suspect, that B is aged under 16.</p> <p><u>2 - Where the penetration does not amount to sexual intercourse:</u> Indecency with children</p> <p>An offence is committed by A by inciting or procuring B, who is aged under 16, to commit an act of gross indecency with A or any other person. An offence is committed by A by committing an act of gross indecency with or towards B, who is aged under 16.</p> <p><u>3 - Where there is penetration of the anus:</u> Unnatural offences</p> <p>An offence is committed by A, who is aged 16 or over, by committing buggery with B, who is aged under 16.</p>	<p><u>1 - Intercourse with young person</u> (s.4(1)) On information - imprisonment for life (s.4(2)) On information - imprisonment not exceeding 7 years</p> <p><u>2 - Indecency with children</u> On information - imprisonment not exceeding 7 years</p> <p><u>3 - Unnatural offences</u> On information - imprisonment for life</p>	Where the penetration does not amount to sexual intercourse, <u>s.13 SOA Indecent assault</u> could be a potential alternative charge, which carries the same maximum penalty; however, consent by B could negate the offence where A does not know, or has no reason to suspect, that B is aged under 16.

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2.5	13	<p>Causing or inciting a child to engage in sexual activity</p> <p>An offence is committed by A, who is aged over 18, by intentionally causing or inciting B to engage in sexual activity. This offence applies where B is either aged under 16, and A does not reasonably believe B to be 16 or over; or aged under 13.</p> <p><u>S.13(3) applies</u> where the activity involves penetration of B's anus or vagina; penile penetration of B's mouth by any person; penetration of any person's anus or vagina by any part of B's body or other object; or penetration of any person's mouth by B's penis.</p>	<p><u>Where s.13(3) applies:</u></p> <p>On information - 14 years' custody</p> <p><u>Where s.13(3) does not apply:</u></p> <p>On information - 14 years' custody</p> <p>Summary - 12 months' custody or a level 5 fine or both</p>	Sexual Offences Act 1992 1 - s.18 2 - s.14	<p><u>1 - Where a sexual act has been committed:</u></p> <p>Procurement of young person</p> <p>An offence is committed by A by procuring B, who is aged under 18, to commit a sexual act anywhere in the world.</p> <p><u>2 - Where a sexual act has not been committed:</u></p> <p>Indecency with children</p> <p>An offence is committed by A by inciting or procuring B, who is aged under 16, to commit an act of gross indecency with A or any other person. An offence is committed by A by committing an act of gross indecency with or towards B, who is aged under 16.</p>	<p><u>1 - Procurement of young person</u></p> <p>On information - imprisonment not exceeding 7 years</p> <p><u>2 - Indecency with children</u></p> <p>On information - imprisonment not exceeding 7 years</p>	Any reference under the SOA to a "sexual act" is to mean sexual intercourse or buggery only.
2.5	14	<p>Engaging in sexual activity in the presence of a child</p> <p>An offence is committed by A, who is aged 18 or over, by intentionally engaging in sexual activity when B is present or able to observe and A knows or believes that B is aware of the activity or A intends that B be aware of the activity. This offence applies where A's purpose is to obtain sexual gratification and where B is either aged under 16, and A does not reasonably believe B to be 16 or over; or aged under 13.</p>	On information - 10 years' custody Summary - 12 months' custody or a level 5 fine or both	Sexual Offences Act 1992 s.14	<p>Indecency with children</p> <p>An offence is committed by A by inciting or procuring B, who is aged under 16, to commit an act of gross indecency with A or any other person. An offence is committed by A by committing an act of gross indecency with or towards B, who is aged under 16.</p>	On information - imprisonment not exceeding 7 years	The case of <i>Oake v. Bibby</i> 1990-92 MLR 423 (HBC) indicated that the SOA s.14 charge of indecency with children would be most appropriate where A engages in sexual activity with knowledge that a child is or may be present to observe.
2.5	15	<p>Causing a child to watch or listen to a sexual act</p> <p>An offence is committed by A, who is aged 18 or over, by intentionally causing B to watch a third person engaging in sexual activity; to look at an image of any person engaging sexual activity; or to listen to any person engaging in sexual activity. This offence applies where A's purpose is to obtain sexual gratification and where B is either aged under 16, and A does not reasonably believe B to be aged 16 or over; or aged under 13.</p>	On information - 10 years' custody Summary - 12 months' custody or a level 5 fine or both	Sexual Offences Act 1992 s.14	<p>Indecency with children</p> <p>An offence is committed by A by inciting or procuring B, who is aged under 16, to commit an act of gross indecency with A or any other person. An offence is committed by A by committing an act of gross indecency with or towards B, who is aged under 16.</p>	On information - imprisonment not exceeding 7 years	The case of <i>Oake v. Bibby</i> 1990-92 MLR 423 (HBC) indicated that the SOA s.14 charge of indecency with children would be most appropriate where A intends to expose a child to sexual activity.
2.5	16	<p>Child sex offences committed by a child or young person</p> <p>An offence is committed by A, who is aged under 18, by doing anything which would constitute an offence under sections 12 to 15 were A aged 18 or over.</p>	On information - 5 years' custody Summary - 12 months' custody or a level 5 fine or both	N/A	No distinction is made of these offences under the Sexual Offences Act 1992 for offenders under the age of 18 .	The same maximum penalties apply as for those aged 18 or over.	An exception of sorts applies in the case of <u>s.9 Unnatural offences:</u> Where A, aged 16 or over, commits buggery with B, who is also aged 16 or over, the maximum penalty is on information to imprisonment not exceeding 7 years. It follows that the same applies conversely where both A and B are aged under 16.
2.5	17	<p>Arranging or facilitating commission of a child sex offence</p> <p>An offence is committed by A by intentionally arranging or facilitating something which would constitute an offence under sections 12 to 16 of this Act. This offence applies where such thing is anywhere in the world and where A intends to do such thing themselves; intends any other person to do such thing; or believes any other person will do such thing.</p>	On information - 14 years' custody Summary - 12 months' custody or a level 5 fine or both	Sexual Offences Act 1992 1 - s.3 2 - s.18	<p><u>1 - Where facilitation occurs by means of drugging:</u></p> <p>Administering drugs to obtain or facilitate sexual act</p> <p>An offence is committed by A by administering to, or causing to be taken by, B any drug, matter etc., with intent to stupefy B so as to enable A or any other person to commit a sexual act with B.</p> <p><u>2 - Where a sexual act is to be committed:</u></p> <p>Procurement of young person</p> <p>An offence is committed by A by procuring B, who is aged under 18, to commit a sexual act anywhere in the world.</p>	<p><u>1 - Administering drugs to obtain or facilitate sexual act</u></p> <p>On information - imprisonment not exceeding 7 years</p> <p><u>2 - Procurement of young person</u></p> <p>On information - imprisonment not exceeding 7 years</p>	Any reference under the SOA to a "sexual act" is to mean sexual intercourse or buggery only.
2.5	18	<p>Meeting a child following sexual grooming etc.</p> <p>An offence is committed by A, who is aged 18 or over, where, having previously met or communicated with B on at least one occasion, A intentionally meets B; A travels to meet or arranges to meet B anywhere in the world; or B travels to meet A in any part of the world. This offence applies where B is aged under 16 and A does not reasonably believe that B is aged 16 or over. This offence applies where, during or after any such meeting, A intends to do anything in respect of B that would constitute the commission of any offence under Part 2 of this Act.</p>	On information - 10 years' custody Summary - 12 months' custody or a level 5 fine or both	Sexual Offences Act 1992 s.18A	<p>Meeting a person under 16 following sexual grooming etc</p> <p>An offence is committed by A, who is aged 18 or over, where, having previously met or communicated with B on at least two earlier occasions, A intentionally meets, or travels with the intention of meeting, B. This offence applies where B is aged under 16 and A does not reasonably believe that B is aged 16 or over. This offence applies where, during or after any such meeting in any part of the world, A intends to do anything in respect of B that would constitute the commission of an offence under this Act.</p>	On information - imprisonment not exceeding 5 years or a fine or both Summary - imprisonment not exceeding 6 months or a fine (£5,000/£10,000) or both	-

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2.5	19	Sexual communication with a child An offence is committed by A, who is aged 18 or over, by intentionally communicating with B, who is aged under 16 and A does not reasonably believe to B to be aged 16 or over. This offence applies where A's purpose is to obtain sexual gratification and where the communication is sexual or intends to encourage B to communicate sexually with A or any other person.	On information - 2 years' custody Summary - 12 months' custody or a level 5 fine or both	N/A	Currently not a distinguishable offence.	N/A	-
2.6	20	Abuse of position of trust: sexual activity with a child or vulnerable adult An offence is committed by A, who is aged 18 or over, by intentionally sexually touching B. This offence applies where A is in a position of trust in relation to B and where B is either aged under 18, and A does not reasonably believe B to be 18 or over; aged under 13; or a vulnerable adult. The exception for spouses and civil partners applies to this entire section - if, at the time, B is aged 16 or over and is the lawful spouse or civil partner of A, then no offence has been committed.	On information - 15 years' custody Summary - 12 months' custody or a level 5 fine or both	Sexual Offences Act 1992 1 - s.9A 2 - s.5 3 - s.6	1 - Where the offence concerns a young person: Abuse of position of trust An offence is committed by A, who is aged 18 or over, by committing a sexual act with B, who is aged under 18, or by engaging in any other sexual activity with or directed towards B. This offence applies where A is in a position of trust in relation to B. This offence applies where A knows, or could reasonably be expected to know, that B is aged under 18; and where A knows, or could reasonably be expected to know, that A is in a position of trust in relation to B. An exception to this offence exists where A is lawfully married to B. 2 - Where the offence concerns a "subnormal" person: Sexual act with subnormal person An offence is committed by A by committing a sexual act with B, who is suffering from severe subnormality. This offence applies where A knows, of has reason to suspect, that B suffers from severe subnormality. 3 - Where the offence concerns a mental patient: Sexual act with mental patient (s.6(1)) An offence is committed by A, who is employed in some capacity in a hospital or mental nursing home, by committing a sexual act with B, who is receiving treatment for a mental disorder in that place; or by committing a sexual act on the premises of that place with B, who is receiving treatment there as an out-patient. (s.6(2)) An offence is committed by A, who has guardianship or custody or care of B, by committing a sexual act with B, who is a mentally disordered patient.	1 - Abuse of position of trust On information - imprisonment not exceeding 5 years or a fine or both Summary - imprisonment not exceeding 6 months or a fine (£5,000/£10,000) or both 2 - Sexual act with subnormal person On information - imprisonment not exceeding 7 years 3 - Sexual act with mental patient (s.6(1)) On information - imprisonment not exceeding 7 years (s.6(2)) On information - imprisonment not exceeding 7 years	There is no direct equivalent for the offence of abuse of position of trust in the context of an offence against a vulnerable adult. Any reference under the SOA to a "sexual act" is to mean sexual intercourse or buggery only.
2.6	21	Abuse of position of trust: causing or inciting a child or vulnerable adult to engage in sexual activity An offence is committed by A, who is aged 18 or over, by intentionally causing or inciting B to engage in sexual activity. This offence applies where A is in a position of trust in relation to B and where B is either aged under 18, and A does not reasonably believe B to be 18 or over; aged under 13; or a vulnerable adult. The exception for spouses and civil partners applies to this entire section - if, at the time, B is aged 16 or over and is the lawful spouse or civil partner of A, then no offence has been committed.	On information - 15 years' custody Summary - 12 months' custody in to level 5 fine in both	Sexual Offences Act 1992 1 - s.18 2 - s.19	1 - Where the offence concerns a young person: Procurement of young person An offence is committed by A by procuring B, who is aged under 18, to commit a sexual act anywhere in the world. 2 - Where the offence concerns a "subnormal" person: Procurement of subnormal person An offence is committed by A by procuring B, who suffers from severe subnormality, to commit a sexual act anywhere in the world. This offence applies where A knows, of has reason to suspect, that B suffers from severe subnormality.	1 - Procurement of young person On information - imprisonment not exceeding 7 years 2 - Procurement of subnormal person On information - imprisonment not exceeding 7 years	There is no direct equivalent for the offence of abuse of position of trust in this context. The offences under the SOA here do not have to involve an abuse of position of trust. Any reference under the SOA to a "sexual act" is to mean sexual intercourse or buggery only.
2.6	22	Abuse of position of trust: sexual activity in the presence of child or vulnerable adult An offence is committed by A, who is aged 18 or over, by intentionally engaging in sexual activity when B is present or able to observe and A knows or believes that B is aware of the activity or A intends B to be aware of the activity. This offence applies where A's purpose is to obtain sexual gratification, where A is in a position of trust in relation to B and where B is either aged under 18, and A does not reasonably believe B to be 18 or over; aged under 13; or a vulnerable adult. The exception for spouses and civil partners applies to this entire section - if, at the time, B is aged 16 or over and is the lawful spouse or civil partner of A, then no offence has been committed.	On information - 11 years' custody Summary - 12 months' custody or a level 5 fine or both	Sexual Offences Act 1992 1 - s.14 Protection from Harassment Act 2000 2 - s.2	1 - Where the offence is against a child: Indecency with children An offence is committed by A by inciting or procuring B, who is aged under 16, to commit an act of gross indecency with A or any other person. An offence is committed by A by committing an act of gross indecency with or towards B, who is aged under 16. 2 - Where the offence is against a vulnerable adult: Offence of harassment An offence is committed by A by pursuing a course of conduct which amounts to harassment of B or which A knows or ought to know amounts to harassment of B.	1 - Indecency with children On information - imprisonment not exceeding 7 years 2 - Offence of harassment Summary - imprisonment not exceeding 6 months or a fine (£5,000/£10,000) or both	There is no direct equivalent for the offence of abuse of position of trust in this context. Harassment is defined as including alarming or causing a person distress

SEXUAL OFFENCES AND OBSCENE PUBLICATIONS BILL				EXISTING LEGISLATION			ADDITIONAL COMMENTS
PART DIVISION	SECTION (CLAUSE)	OFFENCE	MAXIMUM PENALTY	ACT SECTION	(POTENTIAL) CORRESPONDING OFFENCE(S)	CORRESPONDING MAXIMUM PENALTY	
2.6	23	<p>Abuse of position of trust: causing a child or vulnerable adult to watch or listen to a sexual act</p> <p>An offence is committed by A, who is aged 18 or over, by intentionally causing B to watch a third person engaging in sexual activity; to look at an image of any person engaging in sexual activity; or to listen to any person engaging in sexual activity. This offence applies where A's purpose is to obtain sexual gratification, where A is in a position of trust in relation to B and where B is either aged under 18, and A does not reasonably believe B to be 18 or over; aged under 13; or a vulnerable adult.</p> <p>The exception for spouses and civil partners applies to this entire section - if, at the time, B is aged 16 or over and is the lawful spouse or civil partner of A, then no offence has been committed.</p>	On information - 11 years' custody Summary - 12 months' custody or a level 5 fine or both	Sexual Offences Act 1992 <u>1</u> - s.14 Protection from Harassment Act 2000 <u>2</u> - s.2	<p><u>1 - Where the offence is against a child:</u> Indecency with children</p> <p>An offence is committed by A by inciting or procuring B, who is aged under 16, to commit an act of gross indecency with A or any other person. An offence is committed by A by committing an act of gross indecency with or towards B, who is aged under 16.</p> <p><u>2 - Where the offence is against a vulnerable adult:</u> Offence of harassment</p> <p>An offence is committed by A by pursuing a course of conduct which amounts to harassment of B or which A knows or ought to know amounts to harassment of B.</p>	1 - Indecency with children On information - imprisonment not exceeding 7 years 2 - Offence of harassment Summary - imprisonment not exceeding 6 months or a fine (£5,000/£10,000) or both	There is no direct equivalent for the offence of abuse of position of trust in this context. Harassment is defined as including alarming or causing a person distress.
2.6	27	<p>Offences committed by a child or young person: meeting a child following sexual grooming etc, sexual communications with a child and offences when in a position of trust</p> <p>An offence is committed by A, who is aged under 18, by doing anything which would constitute an offence under sections 18 to 23 were A aged 18 or over.</p>	On information - 5 years' custody Summary - 12 months' custody or a level 5 fine or both	N/A	No distinction is made of these offences under the Sexual Offences Act 1992 for offenders under the age of 18 .	The same maximum penalties apply as for those aged 18 or over.	Note that the s.9A SOA offence of abuse of position of trust cannot be committed by a person who is aged under 18.
2.7	28	<p>Sexual activity with a child family member</p> <p>An offence is committed by A by intentionally sexually touching B, who is of relevant relation to A. This offence applies where A knows or could reasonably be expected to know that B is of relevant relation; and where B is either aged under 18, and A does not reasonably believe B to be 18 or over, or where B is aged under 13.</p> <p><u>S.28(4) applies</u> where A was aged 18 or over at the time of the offence. <u>S.28(5) applies</u> where the touching involves penetration of B's anus or vagina by any part of A's body or other object; penetration of B's mouth with A's penis; penetration of A's anus or vagina with any part of B's body or other object; or penetration of A's mouth with B's penis.</p> <p>The exception for spouses and civil partners applies to this entire section - if, at the time, B is aged 16 or over and is the lawful spouse or civil partner of A, then no offence has been committed.</p>	<p>Where both s.28(4) and s.28(5) apply: On information - 14 years' custody Where s.28(4) applies and s.28(5) does not: On information - 14 years' custody Summary - 12 months' custody or a level 5 fine or both Where s.28(4) does not apply: On information - 5 years' custody Summary - 12 months' custody or a level 5 fine or both</p>	Sexual Offences Act 1992 <u>1</u> - s.13 <u>2</u> - s.7	<p><u>1 - Where there is no sexual act (sexual intercourse or buggery):</u> Indecent assault</p> <p>An offence is committed by A by making an indecent assault on B. Where B is aged under 16, consent cannot be deemed to have been given; however, this does not apply where A does not know, and has no reason to suspect, that B is aged under 16.</p> <p><u>2 - Where there is a sexual act (sexual intercourse or buggery):</u> Incest</p> <p>An offence is committed by A, who is aged 16 or over, by committing a sexual act with B, where A knows that B is of relevant relation. <u>S.7(1)(a) applies</u> where B is aged under 13. <u>S.7(1)(b) applies</u> where B is aged 13 or over.</p>	<p><u>1 - Indecent assault</u> On information - imprisonment not exceeding 7 years <u>2 - Incest</u> Where s.7(1)(a) applies: On information - imprisonment for life Where s.7(1)(b): On information - imprisonment not exceeding 10 years</p>	Note that the SOA offence of incest does not include aunts, uncles, nieces and nephews as relevant relatives, whereas the SOOP offence does. Any reference under the SOA to a "sexual act" is to mean sexual intercourse or buggery only.
2.7	29	<p>Inciting a child family member to engage in sexual activity</p> <p>An offence is committed by A by intentionally inciting B, who is of relevant relation to A, to sexually touch A or allow themselves to be sexually touched by A. This offence applies where A knows or could reasonably be expected to know that B is of relevant relation; and where B is either aged under 18, and A does not reasonably believe B to be 18 or over, or where B is aged under 13.</p> <p><u>S.29(4) applies</u> where A was aged 18 or over at the time of the offence. <u>S.29(5) applies</u> where the touching involves penetration of B's anus or vagina by any part of A's body or other object; penetration of B's mouth with A's penis; penetration of A's anus or vagina with any part of B's body or other object; or penetration of A's mouth with B's penis.</p> <p>The exception for spouses and civil partners applies to this entire section - if, at the time, B is aged 16 or over and is the lawful spouse or civil partner of A, then no offence has been committed.</p>	<p>Where both s.29(4) and s.29(5) apply: On information - 14 years' custody Where s.29(4) applies and s.29(5) does not: On information - 14 years' custody Summary - 12 months' custody or a level 5 fine or both Where s.29(4) does not apply: On information - 5 years' custody Summary - 12 months' custody or a level 5 fine or both</p>	Sexual Offences Act 1992 s.8	<p>Incitement to commit incest</p> <p>An offence is committed by A by inciting B, who is aged under 16, to commit a sexual act which would constitute an offence by B under s.7 (Incest) if B were aged 16 or over.</p>	On information - imprisonment not exceeding 7 years	Note that the s.7 SOA offence of incest does not include aunts, uncles, nieces and nephews as relevant relatives, whereas the SOOP offence does. Any reference under the SOA to a "sexual act" is to mean sexual intercourse or buggery only.

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2.8	34	<p>Sexual activity with a person with a mental disorder impeding choice An offence is committed by A by intentionally sexually touching B, who is unable to refuse due to a mental disorder. This offence applies where A knows or could be reasonably expected to know that B has a mental disorder which makes them likely to be unable to refuse.</p> <p><u>S.34(3) applies</u> where the touching involves penetration of B's anus or vagina by any part of A's body or other object; penetration of B's mouth with A's penis; penetration of A's anus or vagina with any part of B's body or other object; or penetration of A's mouth with B's penis.</p>	<p>Where s.34(3) applies: On information - custody for life Where s.34(3) does not apply: On information - 14 years' custody Summary - 12 months' custody or a level 5 fine or both</p>	Sexual Offences Act 1992 1 - s.5 2 - s.6	<p><u>1 - Where the offence concerns a "subnormal" person:</u> Sexual act with subnormal person An offence is committed by A by committing a sexual act with B, who is suffering from severe subnormality. This offence applies where A knows, of has reason to suspect, that B suffers from severe subnormality.</p> <p><u>2 - Where the offence concerns a mental patient:</u> Sexual act with mental patient (s.6(1)) An offence is committed by A, who is employed in some capacity in a hospital or mental nursing home, by committing a sexual act with B, who is receiving treatment for a mental disorder in that place; or by committing a sexual act on the premises of that place with B, who is receiving treatment there as an out-patient. (s.6(2)) An offence is committed by A, who has guardianship or custody or care of B, by committing a sexual act with B, who is a mentally disordered patient.</p>	<p>1 - Sexual act with subnormal person On information - imprisonment not exceeding 7 years</p> <p>2 - Sexual act with mental patient (s.6(1)) On information - imprisonment not exceeding 7 years (s.6(2)) On information - imprisonment not exceeding 7 years</p>	Any reference under the SOA to a "sexual act" is to mean sexual intercourse or buggery only.
2.8	35	<p>Causing or inciting a person, with a mental disorder impeding choice, to engage in sexual activity An offence is committed by A by intentionally causing or inciting B, who is unable to refuse due to a mental disorder, to engage in sexual activity. This offence applies where A knows or could be reasonably expected to know that B has a mental disorder which makes them likely to be unable to refuse.</p> <p><u>S.35(3) applies</u> where the activity involves penetration of B's anus or vagina; penile penetration of B's mouth by any person; penetration of any person's anus or vagina by any part of B's body or other object; or penetration of any person's mouth with B's penis.</p>	<p>Where s.35(3) applies: On information - custody for life Where s.35(3) does not apply: On information - 14 years' custody Summary - 12 months' custody or a level 5 fine or both</p>	Sexual Offences Act 1992 s.19	<p>Procurement of subnormal person An offence is committed by A by procuring B, who suffers from severe subnormality, to commit a sexual act anywhere in the world. This offence applies where A knows, of has reason to suspect, that B suffers from severe subnormality.</p>	On information - imprisonment not exceeding 7 years	Any reference under the SOA to a "sexual act" is to mean sexual intercourse or buggery only.
2.8	36	<p>Engaging in sexual activity in the presence of a person with a mental disorder impeding choice An offence is committed by A by intentionally engaging in sexual activity when B, who is unable to refuse due to a mental disorder, is present or able to observe and A knows or believes that B is aware of the activity or A intends that B be aware of the activity. This offence applies where A's purpose is to obtain sexual gratification and where A knows or could reasonably be expected to know that B has a mental disorder which makes them likely to be unable to refuse.</p>	On information - 10 years' custody Summary - 12 months' custody or a level 5 fine or both	Mental Health Act 1998 1 - s.123 Protection from Harassment Act 2000 2 - s.2	<p><u>1 - Specifically involving patients being treated for a mental disorder:</u> Ill-treatment of patients An offence is committed by A, who is an employee of sorts in a hospital or adult care home, by ill-treating or wilfully neglecting B, who is a patient receiving treatment for a mental disorder. This offence applies either where B is an in-patient or where B is an out-patient and the offence takes place on the premises of the hospital or care home.</p> <p><u>2 - Against any person:</u> Offence of harassment An offence is committed by A by pursuing a course of conduct which amounts to harassment of B or which A knows or ought to know amounts to harassment of B.</p>	<p>1 - Ill-treatment of patients On information - imprisonment not exceeding 2 years or a fine or both Summary - imprisonment not exceeding 6 months or a fine (£5,000/£10,000) or both</p> <p>2 - Offence of harassment Summary - imprisonment not exceeding 6 months or a fine (£5,000/£10,000) or both</p>	<p>The Mental Health Act offence could potentially apply if "ill-treatment" is successfully interpreted as incorporating acts such as exposing the patient to sexual activities.</p> <p>Neither of the existing, potentially corresponding, offences require a desire for sexual gratification.</p> <p>Harassment is defined as including alarming a person or causing a person distress.</p>
2.8	37	<p>Causing a person, with a mental disorder impeding choice, to watch or listen to a sexual act An offence is committed by A by intentionally causing B, who is unable to refuse due to a mental disorder, to watch a third party engaging in sexual activity; to look at an image of any person engaging in sexual activity; or to listen to any person engaging in sexual activity. This offence applies where A's purpose is to obtain sexual gratification and where A knows or could reasonably be expected to know that B has a mental disorder which makes them likely to be unable to refuse.</p>	On information - 10 years' custody Summary - 12 months' custody or a level 5 fine or both	Mental Health Act 1998 1 - s.123 Protection from Harassment Act 2000 2 - s.2	<p><u>1 - Specifically involving patients being treated for a mental disorder:</u> Ill-treatment of patients An offence is committed by A, who is an employee of sorts in a hospital or adult care home, by ill-treating or wilfully neglecting B, who is a patient receiving treatment for a mental disorder. This offence applies either where B is an in-patient or where B is an out-patient and the offence takes place on the premises of the hospital or care home.</p> <p><u>2 - Against any person:</u> Offence of harassment An offence is committed by A by pursuing a course of conduct which amounts to harassment of B or which A knows or ought to know amounts to harassment of B.</p>	<p>1 - Ill-treatment of patients On information - imprisonment not exceeding 2 years or a fine or both Summary - imprisonment not exceeding 6 months or a fine (£5,000/£10,000) or both</p> <p>2 - Offence of harassment Summary - imprisonment not exceeding 6 months or a fine (£5,000/£10,000) or both</p>	<p>The Mental Health Act offence could potentially apply if "ill-treatment" is successfully interpreted as incorporating acts such as exposing the patient to sexual activities.</p> <p>Neither of the existing, potentially corresponding, offences require a desire for sexual gratification.</p> <p>Harassment is defined as including alarming a person or causing a person distress.</p>

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2.9	38	<p><u>Inducement, threat or deception to procure sexual activity with a person with a mental disorder</u></p> <p>An offence is committed by A by intentionally sexually touching B, who has a mental disorder, with B's agreement which has been obtained by means of inducement, threat or deception by A. This offence applies where A knows or could reasonably be expected to know that B has a mental disorder.</p> <p><u>S.38(2) applies</u> where the touching involves penetration of B's anus or vagina by any part of A's body or other object; penetration of B's mouth with A's penis; penetration of A's anus or vagina with any part of B's body or other object; or penetration of A's mouth with B's penis.</p>	<p>Where s.38(2) applies: On information - custody for life</p> <p>Where s.38(2) does not apply: On information - 14 years' custody</p> <p>Summary - 12 months' custody or a level 5 fine or both</p>	Sexual Offences Act 1992 <u>1</u> - s.2 <u>2</u> - s.19	<p><u>1 - Specific to procurement by threat or deception:</u> Procurement by threat or lies</p> <p>An offence is committed by A by procuring B to commit a sexual act anywhere in the world, either by threats or intimidation, or by false pretences or false representation.</p> <p><u>2 - Specific to an offence against a person with a mental disorder:</u> Procurement of subnormal person</p> <p>An offence is committed by A by procuring B, who suffers from severe subnormality, to commit a sexual act anywhere in the world. This offence applies where A knows, or has reason to suspect, that B suffers from severe subnormality.</p>	<p><u>1 - Procurement by threat or lies</u> On information - imprisonment not exceeding 7 years</p> <p><u>2 - Procurement of subnormal person</u> On information - imprisonment not exceeding 7 years</p>	Any reference under the SOA to a "sexual act" is to mean sexual intercourse or buggery only.
2.9	39	<p><u>Causing a person with a mental disorder to engage in or agree to engage in sexual activity by inducement, threat or deception</u></p> <p>An offence is committed by A by intentionally causing B, who has a mental disorder, to engage or agree to engage in sexual activity by means of inducement, threat or deception by A. This offence applies where A knows or could reasonably be expected to know that B has a mental disorder.</p> <p><u>S.39(2) applies</u> where the activity involves penetration of B's anus or vagina; penile penetration of B's mouth by any person; penetration of any person's anus or vagina by any part of B's body or other object; or penetration of any person's mouth with B's penis.</p>	<p>Where s.39(2) applies: On information - custody for life</p> <p>Where s.39(2) does not apply: On information - 14 years' custody</p> <p>Summary - 12 months' custody or a level 5 fine or both</p>	Sexual Offences Act 1992 <u>1</u> - s.2 <u>2</u> - s.19	<p><u>1 - Specific to procurement by threat or deception:</u> Procurement by threat or lies</p> <p>An offence is committed by A by procuring B to commit a sexual act anywhere in the world, either by threats or intimidation, or by false pretences or false representation.</p> <p><u>2 - Specific to an offence against a person with a mental disorder:</u> Procurement of subnormal person</p> <p>An offence is committed by A by procuring B, who suffers from severe subnormality, to commit a sexual act anywhere in the world. This offence applies where A knows, or has reason to suspect, that B suffers from severe subnormality.</p>	<p><u>1 - Procurement by threat or lies</u> On information - imprisonment not exceeding 7 years</p> <p><u>2 - Procurement of subnormal person</u> On information - imprisonment not exceeding 7 years</p>	Any reference under the SOA to a "sexual act" is to mean sexual intercourse or buggery only.
2.9	40	<p><u>Engaging in sexual activity in the presence, procured by inducement, threat or deception, of a person with a mental disorder</u></p> <p>An offence is committed by A by intentionally engaging in sexual activity when B, who has a mental disorder, is present or able to observe and A knows or believes that B is aware of the activity or A intends that B be aware of the activity; and where B agrees to be present or observe because of an inducement, threat or deception by A for the purpose of obtaining B's agreement. This offence applies where A's purpose is to obtain sexual gratification and A knows or could reasonably be expected to know that B has a mental disorder.</p>	<p>On information - 10 years' custody</p> <p>Summary - 12 months' custody or a level 5 fine or both</p>	Mental Health Act 1998 <u>1</u> - s.123 Protection from Harassment Act 2000 <u>2</u> - s.2	<p><u>1 - Specifically involving patients being treated for a mental disorder:</u> Ill-treatment of patients</p> <p>An offence is committed by A, who is an employee of sorts in a hospital or adult care home, by ill-treating or wilfully neglecting B, who is a patient receiving treatment for a mental disorder. This offence applies either where B is an in-patient or where B is an out-patient and the offence takes place on the premises of the hospital or care home.</p> <p><u>2 - Against any person:</u> Offence of harassment</p> <p>An offence is committed by A by pursuing a course of conduct which amounts to harassment of B or which A knows or ought to know amounts to harassment of B.</p>	<p>1 - Ill-treatment of patients On information - imprisonment not exceeding 2 years or a fine or both Summary - imprisonment not exceeding 6 months or a fine (£5,000/£10,000) or both</p> <p>2 - Offence of harassment Summary - imprisonment not exceeding 6 months or a fine (£5,000/£10,000) or both</p>	<p>The Mental Health Act offence could potentially apply if "ill-treatment" is successfully interpreted as incorporating acts such as exposing the patient to sexual activities.</p> <p>Neither of the existing, potentially corresponding, offences require a desire for sexual gratification, or for the acts to be carried out as a result of threats, deception etc.</p> <p>Harassment is defined as including alarming a person or causing a person distress.</p>
2.9	41	<p><u>Causing a person with a mental disorder to watch or listen to a sexual act by inducement, threat or deception</u></p> <p>An offence is committed by A by intentionally causing B, who has a mental disorder, to watch a third person engaging in sexual activity, to look at an image of any person engaging in sexual activity, or to listen to any person engaging in sexual activity; and where B agrees to do so because of inducement, threat or deception by A for the purpose of obtaining B's agreement. This offence applies where A's purpose is to obtain sexual gratification and A knows or could reasonably be expected to know that B has a mental disorder.</p>	<p>On information - 10 years' custody</p> <p>Summary - 12 months' custody or a level 5 fine or both</p>	Mental Health Act 1998 <u>1</u> - s.123 Protection from Harassment Act 2000 <u>2</u> - s.2	<p><u>1 - Specifically involving patients being treated for a mental disorder:</u> Ill-treatment of patients</p> <p>An offence is committed by A, who is an employee of sorts in a hospital or adult care home, by ill-treating or wilfully neglecting B, who is a patient receiving treatment for a mental disorder. This offence applies either where B is an in-patient or where B is an out-patient and the offence takes place on the premises of the hospital or care home.</p> <p><u>2 - Against any person:</u> Offence of harassment</p> <p>An offence is committed by A by pursuing a course of conduct which amounts to harassment of B or which A knows or ought to know amounts to harassment of B.</p>	<p>1 - Ill-treatment of patients On information - imprisonment not exceeding 2 years or a fine or both Summary - imprisonment not exceeding 6 months or a fine (£5,000/£10,000) or both</p> <p>2 - Offence of harassment Summary - imprisonment not exceeding 6 months or a fine (£5,000/£10,000) or both</p>	<p>The Mental Health Act offence could potentially apply if "ill-treatment" is successfully interpreted as incorporating acts such as exposing the patient to sexual activities.</p> <p>Neither of the existing, potentially corresponding, offences require a desire for sexual gratification, or for the acts to be carried out as a result of threats, deception etc.</p> <p>Harassment is defined as including alarming a person or causing a person distress.</p>

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2.10	43	<p>Care workers: sexual activity with a person with a mental disorder An offence is committed by A by intentionally sexually touching B, who has a mental disorder. This offence applies where A knows or could reasonably be expected to know that B has a mental disorder and where A is involved in B's care.</p> <p><u>S.43(3) applies</u> where the offence involves penetration of B's anus or vagina with any part of A's body or other object; penetration of B's mouth with A's penis; penetration of A's anus or vagina with any part of B's body or other object; or penetration of A's mouth with the B's penis.</p>	<p>Where s.43(3) applies: On information - 14 years' custody Where s.43(3) does not apply: On information - 10 years' custody Summary - 12 months' custody or a level 5 fine or both</p>	Sexual Offences Act 1992 <u>1</u> - s.5 <u>2</u> - s.6	<p><u>1 - Where the offence concerns a "subnormal" person:</u> Sexual act with subnormal person An offence is committed by A by committing a sexual act with B, who is suffering from severe subnormality. This offence applies where A knows, of has reason to suspect, that B suffers from severe subnormality.</p> <p><u>2 - Where the offence concerns a mental patient:</u> Sexual act with mental patient (s.6(1)) An offence is committed by A, who is employed in some capacity in a hospital or mental nursing home, by committing a sexual act with B, who is receiving treatment for a mental disorder in that place; or by committing a sexual act on the premises of that place with B, who is receiving treatment there as an out-patient. (s.6(2)) An offence is committed by A, who has guardianship or custody or care of B, by committing a sexual act with B, who is a mentally disordered patient.</p>	<p><u>1 - Sexual act with subnormal person</u> On information - imprisonment not exceeding 7 years</p> <p><u>2 - Sexual act with mental patient</u> (s.6(1)) On information - imprisonment not exceeding 7 years (s.6(2)) On information - imprisonment not exceeding 7 years</p>	Any reference under the SOA to a "sexual act" is to mean sexual intercourse or buggery only.
2.10	44	<p>Care workers: causing or inciting sexual activity An offence is committed by A by intentionally causing or inciting B, who has a mental disorder, to engage in a sexual activity. This offence applies where A knows or could reasonably be expected to know that B has a mental disorder and where A is involved in B's care.</p> <p><u>S.44(3) applies</u> where the offence involves penetration of B's anus or vagina; penile penetration of B's mouth by any person; penetration of any person's anus or vagina by any part of B's body or other object; or penetration of any person's mouth with B's penis.</p>	<p>Where s.44(3) applies: On information - 14 years' custody Where s.44(3) does not apply: On information - 10 years' custody Summary - 12 months' custody or a level 5 fine or both</p>	Sexual Offences Act 1992 s.19	<p>Procurement of subnormal person An offence is committed by A by procuring B, who suffers from severe subnormality, to commit a sexual act anywhere in the world. This offence applies where A knows, of has reason to suspect, that B suffers from severe subnormality.</p>	On information - imprisonment not exceeding 7 years	Any reference under the SOA to a "sexual act" is to mean sexual intercourse or buggery only.
2.10	45	<p>Care workers: sexual activity in the presence of a person with a mental disorder An offence is committed by A by intentionally engaging in a sexual activity when B, who has a mental health disorder, is present or able to observe, and when A knows or believes that B is aware of the activity, or A intends that B be aware. This offence applies where A's purpose is to obtain sexual gratification, A knows or could reasonably be expected to know that B has a mental disorder, and A is involved in B's care.</p>	<p>On information - 7 years' custody Summary - 12 months' custody or a level 5 fine or both</p>	Mental Health Act 1998 <u>1</u> - s.123 Protection from Harassment Act 2000 <u>2</u> - s.2	<p><u>1 - Specifically involving patients being treated for a mental disorder:</u> Ill-treatment of patients An offence is committed by A, who is an employee of sorts in a hospital or adult care home, by ill-treating or wilfully neglecting B, who is a patient receiving treatment for a mental disorder. This offence applies either where B is an in-patient or where B is an out-patient and the offence takes place on the premises of the hospital or care home.</p> <p><u>2 - Against any person:</u> Offence of harassment An offence is committed by A by pursuing a course of conduct which amounts to harassment of B or which A knows or ought to know amounts to harassment of B.</p>	<p>1 - Ill-treatment of patients On information - imprisonment not exceeding 2 years or a fine or both Summary - imprisonment not exceeding 6 months or a fine (£5,000/£10,000) or both</p> <p>2 - Offence of harassment Summary - imprisonment not exceeding 6 months or a fine (£5,000/£10,000) or both</p>	<p>The Mental Health Act offence could potentially apply if "ill-treatment" is successfully interpreted as incorporating acts such as exposing the patient to sexual activities.</p> <p>Neither of the existing, potentially corresponding, offences require a desire for sexual gratification, or for the acts to be carried out as a result of threats, deception etc.</p> <p>Harassment is defined as including alarming a person or causing a person distress.</p>
2.10	46	<p>Care workers: causing a person with a mental disorder to watch or listen to a sexual act An offence is committed by A by intentionally causing B, who has a mental disorder, to watch a third person engaging in sexual activity; to look at an image of any person engaging in sexual activity; or to listen to any person engaging in sexual activity. This offence applies where A's purpose is to obtain sexual gratification, A knows or could reasonably be expected to know that B has a mental health disorder, and A is involved in B's care.</p>	<p>On information - 7 years' custody Summary - 12 months' custody or a level 5 fine or both</p>	Mental Health Act 1998 <u>1</u> - s.123 Protection from Harassment Act 2000 <u>2</u> - s.2	<p><u>1 - Specifically involving patients being treated for a mental disorder:</u> Ill-treatment of patients An offence is committed by A, who is an employee of sorts in a hospital or adult care home, by ill-treating or wilfully neglecting B, who is a patient receiving treatment for a mental disorder. This offence applies either where B is an in-patient or where B is an out-patient and the offence takes place on the premises of the hospital or care home.</p> <p><u>2 - Against any person:</u> Offence of harassment An offence is committed by A by pursuing a course of conduct which amounts to harassment of B or which A knows or ought to know amounts to harassment of B.</p>	<p>1 - Ill-treatment of patients On information - imprisonment not exceeding 2 years or a fine or both Summary - imprisonment not exceeding 6 months or a fine (£5,000/£10,000) or both</p> <p>2 - Offence of harassment Summary - imprisonment not exceeding 6 months or a fine (£5,000/£10,000) or both</p>	<p>The Mental Health Act offence could potentially apply if "ill-treatment" is successfully interpreted as incorporating acts such as exposing the patient to sexual activities.</p> <p>Neither of the existing, potentially corresponding, offences require a desire for sexual gratification, or for the acts to be carried out as a result of threats, deception etc.</p> <p>Harassment is defined as including alarming a person or causing a person distress.</p>

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PART DIVISION	SECTION (CLAUSE)	OFFENCE	MAXIMUM PENALTY	ACT SECTION	(POTENTIAL) CORRESPONDING OFFENCE(S)	CORRESPONDING MAXIMUM PENALTY	
2 . 11	49	<p>Paying for sexual services of a child</p> <p>An offence is committed by A by intentionally obtaining for his/herself the sexual services of B, who is either aged under 18 and A does not reasonably believe them to be 18 or over, or is aged under 13; and A has made or promised to make payment for those services or knows that a third party has made or promised to make payment.</p> <p><u>s.49(7) applies</u> where the offence involves penetration of B's anus or vagina with any part of A's body or other object; penetration of B's mouth with A's penis; penetration of A's anus or vagina with any part of B's body or other object; or penetration of A's mouth with the B's penis.</p> <p><u>s.49(4) applies</u> where B is aged under 13 and where s.49(7) applies.</p> <p><u>s.49(5) applies</u> where B is aged under 16, but not where s.49(4) applies.</p> <p><u>s.49(6) applies</u> where s.49(4) and s.49(5) do not.</p>	<p>Where s.49(4) applies: On information - custody for life Where s.49(5) and s.49(7) apply: On information - 14 years' custody Where s.49(5) applies and s.49(7) does not: On information - 14 years' custody Summary - 12 months' custody or a level 5 fine or both Where s.49(6) and s.49(7) apply: On information - 14 years' custody Where s.49(6) applies and s.49(7) does not: On information - 7 years' custody Summary - 12 months' custody or a level 5 fine or both</p>	Sexual Offences Act 1992 <u>1</u> - s.18 <u>2</u> - s.23	<p><u>1 - Where the offence concerns any young person:</u> Procurement of young person An offence is committed by A by procuring B, who is aged under 18, to commit a sexual act anywhere in the world.</p> <p><u>2 - Where the offence concerns a young person for whom A has responsibility:</u> Causing or encouraging prostitution etc of young person An offence is committed by A by causing or encouraging the prostitution of, or the commission of a sexual act with or an indecent assault on, B, who is aged under 16. This offence applies where A has responsibility for B (A is B's parent or guardian, or has custody, charge or care of B).</p>	<p><u>1 - Procurement of young person</u> On information - imprisonment not exceeding 7 years</p> <p><u>2 - Causing or encouraging prostitution etc of young person</u> On information - imprisonment not exceeding 10 years</p>	Any reference under the SOA to a "sexual act" is to mean sexual intercourse or buggery only.
2 . 11	50	<p>Causing or inciting sexual exploitation of a child</p> <p>An offence is committed by A by intentionally causing B to be sexually exploited anywhere in the world. This offence applies where B is either aged under 18, and A does not reasonably believe B to be aged 18 or over; or aged under 13.</p>	On information - 14 years' custody Summary - 12 months' custody or a level 5 fine or both	Sexual Offences Act 1992 <u>1</u> - s.18 <u>2</u> - s.23	<p><u>1 - Where the offence concerns any young person:</u> Procurement of young person An offence is committed by A by procuring B, who is aged under 18, to commit a sexual act anywhere in the world.</p> <p><u>2 - Where the offence concerns a young person for whom A has responsibility:</u> Causing or encouraging prostitution etc of young person An offence is committed by A by causing or encouraging the prostitution of, or the commission of a sexual act with or an indecent assault on, B, who is aged under 16. This offence applies where A has responsibility for B (A is B's parent or guardian, or has custody, charge or care of B).</p>	<p><u>1 - Procurement of young person</u> On information - imprisonment not exceeding 7 years</p> <p><u>2 - Causing or encouraging prostitution etc of young person</u> On information - imprisonment not exceeding 10 years</p>	Any reference under the SOA to a "sexual act" is to mean sexual intercourse or buggery only.
2 . 11	51	<p>Controlling a child in relation to sexual exploitation</p> <p>An offence is committed by A by intentionally controlling the activities of B in relation to the sexual exploitation of B anywhere in the world. This offence applies where B is either aged under 18, and A does not reasonably believe B to be aged 18 or over; or aged under 13.</p>	On information - 14 years' custody Summary - 12 months' custody or a level 5 fine or both	Sexual Offences Act 1992 <u>1</u> - s.18 <u>2</u> - s.25	<p><u>1 - Where the offence concerns a sexual act:</u> Procurement of young person An offence is committed by A by procuring B, who is aged under 18, to commit a sexual act anywhere in the world.</p> <p><u>2 - Where the offence concerns prostitution:</u> Living on or controlling prostitution An offence is committed by A by knowingly living wholly or in part on the earnings of prostitution of B. An offence is committed by A by exercising control, direction or influence over B's movements in a way which shows that A is aiding, abetting or compelling B's prostitution with others.</p>	<p>1 - Procurement of young person On information - imprisonment not exceeding 7 years</p> <p>2 - Living on or controlling prostitution On information - imprisonment not exceeding 14 years Summary - imprisonment not exceeding 6 months or a fine (£5,000/£10,000) or both</p>	Any reference under the SOA to a "sexual act" is to mean sexual intercourse or buggery only.

SEXUAL OFFENCES AND OBSCENE PUBLICATIONS BILL				EXISTING LEGISLATION			ADDITIONAL COMMENTS
PART DIVISION	SECTION (CLAUSE)	OFFENCE	MAXIMUM PENALTY	ACT SECTION	(POTENTIAL) CORRESPONDING OFFENCE(S)	CORRESPONDING MAXIMUM PENALTY	
2. 11	52	<p>Arranging or facilitating sexual exploitation of a child</p> <p>An offence is committed by A by intentionally arranging or facilitating the sexual exploitation of B anywhere in the world. This offence applies where B is either aged under 18, and A does not reasonably believe B to be aged 18 or over; or aged under 13.</p>	On information - 14 years' custody Summary - 12 months' custody or a level 5 fine or both	Sexual Offences Act 1992 <u>1</u> - s.18 <u>2</u> - s.23 <u>3</u> - s.25	<p><u>1 - Where the offence concerns a sexual act:</u> Procurement of young person An offence is committed by A by procuring B, who is aged under 18, to commit a sexual act anywhere in the world.</p> <p><u>2 - Where the offence concerns prostitution of a young person for whom A has responsibility:</u> Causing or encouraging prostitution etc of young person An offence is committed by A by causing or encouraging the prostitution of, or the commission of a sexual act with or an indecent assault on, B, who is aged under 16. This offence applies where A has responsibility for B (A is B's parent or guardian, or has custody, charge or care of B).</p> <p><u>3 - Where the offence concerns prostitution:</u> Living on or controlling prostitution An offence is committed by A by knowingly living wholly or in part on the earnings of prostitution of B. An offence is committed by A by exercising control, direction or influence over B's movements in a way which shows that A is aiding, abetting or compelling B's prostitution with others.</p>	<p>1 - Procurement of young person On information - imprisonment not exceeding 7 years</p> <p>2 - Causing or encouraging prostitution etc of young person On information - imprisonment not exceeding 10 years</p> <p>3 - Living on or controlling prostitution On information - imprisonment not exceeding 14 years Summary - imprisonment not exceeding 6 months or a fine (£5,000/£10,000) or both</p>	Any reference under the SOA to a "sexual act" is to mean sexual intercourse or buggery only.
2. 12	54	<p>Soliciting and loitering or soliciting for the purposes of prostitution</p> <p>For s.54(1), an offence is committed by A by soliciting B in a street or public place for the purpose of obtaining sexual services from B.</p> <p>For s.54(2), an offence is committed by A, who is aged 18 or over, by persistently loitering or soliciting in a street or public place for the purpose of offering services as a prostitute.</p>	<p>For s.54(1): Summary - a level 2 fine</p> <p>For s.54(2): Summary - a level 2 fine</p> <p>The Court may order that 3 meetings be attended to address the cause of the conduct - once an order is in place no other penalty can be imposed for the offence</p>	Sexual Offences Act 1992: <u>1</u> - s.26 <u>2</u> - s.27	<p><u>1 - Where the offence involves soliciting by any person:</u> Soliciting An offence is committed by A by persistently soliciting or importuning, in a street or public place, another person or persons to commit a sexual act.</p> <p><u>2 - Where the offence involves loitering or soliciting by a prostitute:</u> Loitering etc by prostitute An offence is committed by A, who is a prostitute, by loitering or soliciting, in a street or public place, for the purposes of prostitution.</p>	<p>1 - Soliciting On information - imprisonment not exceeding 7 years Summary - imprisonment not exceeding 6 months or a fine (£5,000/£10,000) or both</p> <p>2 - Loitering etc by prostitute On information - imprisonment not exceeding 2 years or a fine or both Summary - imprisonment not exceeding 6 months or a fine (£5,000/£10,000) or both</p>	Any reference under the SOA to a "sexual act" is to mean sexual intercourse or buggery only.
2. 12	55	<p>Causing or inciting prostitution for gain</p> <p>An offence is committed by A by intentionally causing or inciting B to become a prostitute anywhere in the world, doing so with the expectation of there being a gain for A or a third person.</p>	On information - 7 years' custody Summary - 12 months' custody or a level 5 fine or both	Sexual Offences Act 1992 <u>1</u> - s.17 <u>2</u> - s.24 <u>2</u> - s.25	<p><u>1 - Where the offence concerns any person:</u> Causing prostitution An offence is committed by A by procuring B to become a prostitute anywhere in the world; or by procuring B to leave the Island, with A intending that B become an inmate of or frequent a brothel; or by procuring B to leave the Island, with A intending that B become an inmate of or frequent a brothel anywhere in the world for the purposes of prostitution.</p> <p><u>2 - Where the offence concerns a "subnormal" person:</u> Causing or encouraging prostitution of subnormal person An offence is committed by A by causing or encouraging the prostitution of B, who suffers from severe subnormality, anywhere in the world.</p> <p><u>3 - Where the offence concerns any person and an element of gain:</u> Living on or controlling prostitution An offence is committed by A by knowingly living wholly or in part on the earnings of prostitution of B. An offence is committed by A by exercising control, direction or influence over B's movements in a way which shows that A is aiding, abetting or compelling B's prostitution with others.</p>	<p>1 - Causing prostitution On information - imprisonment not exceeding 7 years</p> <p>2 - Causing or encouraging prostitution etc of young person On information - imprisonment not exceeding 10 years</p> <p>2 - Living on or controlling prostitution On information - imprisonment not exceeding 14 years Summary - imprisonment not exceeding 6 months or a fine (£5,000/£10,000) or both</p>	-

SEXUAL OFFENCES AND OBSCENE PUBLICATIONS BILL				EXISTING LEGISLATION			ADDITIONAL COMMENTS
PART DIVISION	SECTION (CLAUSE)	OFFENCE	MAXIMUM PENALTY	ACT SECTION	(POTENTIAL) CORRESPONDING OFFENCE(S)	CORRESPONDING MAXIMUM PENALTY	
2. 12	56	Controlling prostitution for gain An offence is committed by A by intentionally controlling any activities of B in relation to B's prostitution anywhere in the world, doing so with the expectation of there being a gain for A or a third person.	On information - 7 years' custody Summary - 12 months' custody or a level 5 fine or both	Sexual Offences Act 1992 <u>1</u> - s.24 <u>2</u> - s.25	1 - Where the offence concerns a "subnormal" person: Causing or encouraging prostitution of subnormal person An offence is committed by A by causing or encouraging the prostitution of B, who suffers from severe subnormality, anywhere in the world. 2 - Where the offence concerns any person and an element of gain: Living on or controlling prostitution An offence is committed by A by knowingly living wholly or in part on the earnings of prostitution of B. An offence is committed by A by exercising control, direction or influence over B's movements in a way which shows that A is aiding, abetting or compelling B's prostitution with others.	1 - Causing or encouraging prostitution etc of young person On information - imprisonment not exceeding 10 years 2 - Living on or controlling prostitution On information - imprisonment not exceeding 14 years Summary - imprisonment not exceeding 6 months or a fine (£5,000/£10,000) or both	-
2. 12	57	Paying for sexual services of a prostitute subjected to force etc An offence is committed by A by making or promising payment for the sexual services of a prostitute, where a third person has engaged in exploitative conduct likely to induce or encourage the prostitute to provide said sexual services and where that third person did so in the expectation of gain for themselves or any person other than the prostitute and A.	Summary - a level 2 fine	N/A	Not currently a distinguishable offence.	N/A	-
2. 13	59	Keeping a brothel used for prostitution An offence is committed by A by keeping, managing or assisting in the management of a brothel to which people resort for practices involving prostitution.	On information - 7 years' custody Summary - 12 months' custody or a level 5 fine or both	Sexual Offences Act 1992 s.28	Keeping a brothel An offence is committed by A by keeping a brothel; managing a brothel; or acting or assisting in the management of a brothel.	On information - imprisonment not exceeding 2 years or a fine or both Summary - imprisonment not exceeding 6 months or a fine (£5,000/£10,000) or both	-
2. 13	60	Landlord letting premises for use as brothel An offence is committed by A, as the lessor or landlord of any premises or their agent, by letting any part of the premises knowing that it is to be used as a brothel; or by being a wilful party to continued use of a property as a brothel.	Summary - 12 months' custody or a level 5 fine or both	Sexual Offences Act 1992 s.29	Letting premises for use as brothel An offence is committed by A, as landlord or agent to the landlord, by letting the whole or part of the premises with knowledge that it is to be used in whole or part as a brothel; or by knowingly being party to the continuing use as a brothel of the whole or part of the premises.	On information - imprisonment not exceeding 2 years or a fine or both Summary - imprisonment not exceeding 6 months or a fine (£5,000/£10,000) or both	-
2. 13	61	Tenant permitting premises to be used as brothel An offence is committed by A, as the tenant or occupier or person in charge of any property, by knowingly permitting any part of the premises to be used as a brothel.	Summary - 12 months' custody or a level 5 fine or both	Sexual Offences Act 1992 s.30	Occupier or tenant permitting premises to be used as brothel An offence is committed by A, as occupier or tenant or person in charge of any premises, by knowingly permitting the whole or part of the premises to be used as a brothel.	On information - imprisonment not exceeding 2 years or a fine or both Summary - imprisonment not exceeding 6 months or a fine (£5,000/£10,000) or both	-
2. 13	62	Tenant permitting premises to be used for prostitution An offence is committed by A, as the tenant or occupier of any premises, by knowingly permitting any part of the premises to be used for the purposes of habitual prostitution.	Summary - 12 months' custody or a level 5 fine or both	Sexual Offences Act 1992 s.31	Occupier or tenant permitting premises to be used for prostitution An offence is committed by A, as occupier or tenant or person in charge of any premises, by knowingly permitting the whole or part of the premises to be used for the purposes of habitual prostitution.	On information - imprisonment not exceeding 2 years or a fine or both Summary - imprisonment not exceeding 6 months or a fine (£5,000/£10,000) or both	-
2. 13	65	Allowing persons under 18 or vulnerable adults to be in brothels An offence is committed by A by allowing B to reside in or frequent a brothel. This offence applies where A has responsibility for B and where B is either aged under 16; aged 16 to 17 with impaired ability to protect themselves; or a vulnerable adult.	Summary - 12 months' custody or a fine not exceeding level 5 or both	Children and Young Persons Act 1966 s.3	Allowing persons under 16 to be in brothels An offence is committed by A by allowing B to reside in or frequent a brothel. This offence applies where A has responsibility for B; and where B is aged 4 or over and under 16.	On indictment or summary - imprisonment not exceeding 6 months or a fine (£2,500/£5,000) or both	It is not currently an offence to allow persons under 18 or vulnerable adults to be in brothels.
2. 14	66	Administering a substance with intent An offence is committed by A by intentionally administering a substance to, or causing a substance to be taken by, B with the knowledge that B does not consent and with the intention of stupefying or overpowering B so as to engage in sexual activity with them.	On information - 10 years' custody Summary - 12 months' custody or a level 5 fine or both	Sexual Offences Act 1992 s.3	Administering drugs to obtain or facilitate sexual act An offence is committed by A by administering to, or causing to be taken by, B any drug, matter etc., with intent to stupefy B so as to enable A or any other person to commit a sexual act with B.	On information - imprisonment not exceeding 7 years	Any reference under the SOA to a "sexual act" is to mean sexual intercourse or buggery only.

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PART DIVISION	SECTION (CLAUSE)	OFFENCE	MAXIMUM PENALTY	ACT SECTION	(POTENTIAL) CORRESPONDING OFFENCE(S)	CORRESPONDING MAXIMUM PENALTY	
2. 14	67	<p>Committing an offence with intent to commit a sexual offence</p> <p>An offence is committed by A by committing any offence with the intent of committing any offence under Part 2 of this Act (except an offence under s.87). <u>S.67(3) applies</u> where an offence under this section is committed by kidnapping or false imprisonment.</p>	<p>Where s.67(3) applies: On information - custody for life</p> <p>Where s.67(3) does not apply: On information - 10 years' custody Summary - 12 months' custody or a level 5 fine or both</p>	<p>Sexual Offences Act 1992</p> <p>1 - s.11 2 - s.15 3 - s.16</p> <p>The Criminal Code 1872</p> <p>4 - s.51</p>	<p><u>1 - Where the intention is to commit buggery:</u> Assault with intent to commit buggery An offence is committed by A by assaulting B with the intention to commit buggery.</p> <p><u>2 - Where the offence is abduction:</u> Abduction by force An offence is committed by A by taking away or detaining B against B's will by force with the intent that B will commit a sexual act.</p> <p><u>3 - Where the offence is abduction of a "subnormal" person:</u> Abduction of a subnormal person An offence is committed by A by taking away or detaining B, who suffers from severe subnormality, against the will of B's parent or guardian, with the intent that B will commit a sexual act.</p> <p><u>4 - Where the offence is assault:</u> Assault with intent to commit felony, or on peace officers, etc An offence is committed by A by assaulting B with intent to commit felony.</p>	<p><u>1 - Assault with intention to commit buggery</u> On information - imprisonment not exceeding 10 years</p> <p><u>2 - Abduction by force</u> On information - imprisonment not exceeding 14 years</p> <p><u>3 - Abduction of subnormal person</u> On information - imprisonment not exceeding 14 years</p> <p><u>4 - Assault with intent to commit felony, or on peace officers, etc</u> Imprisonment not exceeding 2 years</p>	<p>Any reference under the SOA to a "sexual act" is to mean sexual intercourse or buggery only.</p> <p>Note that further provisions regarding peace officers from s.51 of The Criminal Code have been omitted from this description. Felony has been taken here to mean an offence punishable of at least one year, therefore encompassing a number of the sexual offences.</p>
2. 14	68	<p>Trespass with intent to commit a sexual offence</p> <p>An offence is committed by A by being a trespasser on any premises with the intent to commit any offence under Part 2 of this Act (except an offence under s.87) whilst A knows that, or is reckless as to whether, A is a trespasser.</p>	<p>On information - 10 years' custody Summary - 12 months' custody or a level 5 fine or both</p>	<p>The Vagrancy Act 1896</p> <p>s.2(9)</p>	<p>Found on premises for unlawful purpose</p> <p>An offence is committed by A by being found in or upon any dwelling-house, shop, warehouse, coach-house, stable, or outhouse, or in any enclosed yard, garden, or area for unlawful purpose.</p>	<p>Imprisonment not exceeding 3 months, with or without hard labour</p>	-
2. 15	69	<p>Sex with an adult relative: penetration</p> <p>An offence is committed by A, who is aged 16 or over, by intentionally sexually penetrating a relative aged 18 or over whilst knowing, or being reasonably expected to know, that that person is a relative.</p>	<p>On information - 2 years' custody Summary - 12 months' custody or a level 5 fine or both</p>	<p>Sexual Offences Act 1992</p> <p>s.7</p>	<p>Incest</p> <p>An offence is committed by A, who is aged 16 or over, by committing a sexual act with B, where A knows that B is of relevant relation. <u>S.7(1)(a) applies</u> where B is aged under 13. <u>S.7(1)(b) applies</u> where B is aged 13 or over.</p>	<p><u>Where s.7(1)(a) applies:</u> On information - imprisonment for life</p> <p><u>Where s.7(1)(b):</u> On information - imprisonment not exceeding 10 years</p>	<p>Note that the SOA offence of incest does not include aunts, uncles, nieces and nephews as relevant relatives, whereas the SOOP offence does.</p> <p>Any reference under the SOA to a "sexual act" is to mean sexual intercourse or buggery only.</p>
2. 15	70	<p>Sex with an adult relative: consenting to penetration</p> <p>An offence is committed by A, who is aged 16 or over, by being, and consenting to being, sexually penetrated by a relative aged 18 or over whilst knowing, or being reasonably expected to know, that that person is a relative.</p>	<p>On information - 2 years' custody Summary - 12 months' custody or a level 5 fine or both</p>	<p>Sexual Offences Act 1992</p> <p>s.7</p>	<p>Incest</p> <p>An offence is committed by A, who is aged 16 or over, by committing a sexual act with B, where A knows that B is of relevant relation. <u>S.7(1)(a) applies</u> where B is aged under 13. <u>S.7(1)(b) applies</u> where B is aged 13 or over.</p>	<p><u>Where s.7(1)(a) applies:</u> On information - imprisonment for life</p> <p><u>Where s.7(1)(b):</u> On information - imprisonment not exceeding 10 years</p>	<p>Note that the SOA offence of incest does not include aunts, uncles, nieces and nephews as relevant relatives, whereas the SOOP offence does.</p> <p>Any reference under the SOA to a "sexual act" is to mean sexual intercourse or buggery only.</p>
2. 16	71	<p>Indecent photographs of children</p> <p>An offence is committed by A by possessing any indecent photograph or pseudo-photograph of a child (<u>s.71(1)(a)</u>); by taking, permitting to be taken, such a photograph; by distributing or showing such a photograph; by possessing such a photograph with a view to it being distributed or shown by any person; or by publishing, or causing to be published, any advertisement likely to be understood as conveying that the advertiser distributes, or intends to distribute, such a photograph.</p>	<p><u>For a s.71(1)(a) offence:</u> On information - 5 years' custody Summary - 12 months' custody or a level 5 fine or both</p> <p><u>For all other s.71 offences:</u> On information - 10 years' custody Summary - 12 months' custody or a level 5 fine or both</p>	<p>Criminal Justice Act 2001</p> <p>Schedule 3, paragraph 1</p>	<p>Taking, etc. indecent photographs of children</p> <p>An offence is committed by A by taking, permitting to be taken, or making any indecent photograph or pseudo-photograph of a child; or by distributing or showing such indecent photographs or pseudo-photographs; or by having in possession such indecent photographs or pseudo-photographs; or by publishing or causing to be published any advertisement likely to be understood as conveying that the advertiser distributes or shows, or intends to distribute or show, such indecent photographs or pseudo-photographs.</p>	<p>On information - imprisonment not exceeding 5 years or a fine or both Summary - imprisonment not exceeding 6 months or a fine (£5,000/£10,000) or both</p>	-
2. 16	72	<p>Prohibited images of children</p> <p>An offence is committed by A by being in possession of a prohibited image of a child (<u>s.72(1)(a)</u>); by taking, or permitting to be taken, such an image; by distributing or showing such an image; by possessing such an image with a view to it being distributed or show by any person; or by publishing, or causing to be published, any advertisement likely to be understood as conveying that the advertiser distributes, or intends to distribute, such an image.</p>	<p><u>For a s.72(1)(a) offence:</u> On information - 5 years' custody Summary - 12 months' custody or a level 5 fine or both</p> <p><u>For all other s.72 offences:</u> On information - 10 years' custody Summary - 12 months' custody or a level 5 fine or both</p>	N/A	<p>Not currently a distinguishable offence.</p>	N/A	<p>A prohibited image is defined in the SOOP Bill as an image which is pornographic; which focuses solely or principally on a child's genitals or anal region, or portrays acts listed in s.72(7); or which is grossly offensive, disgusting or otherwise of obscene character.</p>

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PART . DIVISION	SECTION (CLAUSE)	OFFENCE	MAXIMUM PENALTY	ACT SECTION	(POTENTIAL) CORRESPONDING OFFENCE(S)	CORRESPONDING MAXIMUM PENALTY	
2 . 17	82	Exposure An offence is committed by A by intentionally exposing A's genitals with the intention that B will see them and be caused alarm or distress.	On information - 2 years' custody Summary - 12 months' custody or a level 5 fine or both	The Vagrancy Act 1896 <u>1</u> - s.2(4) The Petty Sessions and Summary Jurisdiction Act 1927 <u>2</u> - s.63(15A)	1 - Where the offence concerns any indecent exhibition by a vagrant: Indecent exhibitions An offence is committed by A by wilfully exposing to view in any street, road, or highway, or in any open area, or in any public place, or in any open place to which the public have, or are permitted to have, access, any obscene picture, print, or any other indecent exhibition. 2 - Where the offence specifically concerns exposure of the person: Indecent behaviours An offence is committed by A by wilfully and indecently exposing his/her person with intent to insult any person.	1 - Indecent exhibitions Imprisonment not exceeding 3 months, with or without hard labour 2 - Indecent behaviours Imprisonment not exceeding 3 months or a fine (£1,000/£2,000) or both	-
2 . 17	83	Intercourse with an animal An offence is committed by A by intentionally penetrating the vagina or anus of an animal with A's penis, knowing or being reckless as to the fact that it is an animal. An offence is committed by A by intentionally causing or allowing A's vagina or anus to be penetrated by the penis of an animal, knowing or being reckless as to the fact that it is an animal.	On information - 2 years' custody Summary - 12 months' custody or a level 5 fine or both	Sexual Offences Act 1992 s.12	Bestiality An offence is committed by A by committing a sexual act with an animal.	On information - imprisonment not exceeding 7 years	Any reference under the SOA to a "sexual act" is to mean sexual intercourse or buggery only.
2 . 17	84	Sexual penetration of a corpse An offence is committed by A by intentionally sexually penetrating, with A's body or anything else, any part of the body of a dead person, knowing or being reckless as to the fact that it is the body of a dead person.	On information - 2 years' custody Summary - 12 months' custody or a level 5 fine or both	The Criminal Code 1872 s.347	Other offences not specified An offence is committed by A by doing any other act or thing (not in this Code or in any other unrepealed Act of Tynwald or bye-law made by authority of any Act of Tynwald, specified or referred to, or otherwise provided for by law), in contempt of God or religion, or in contempt of the Queen's Government, or against public justice, or against public trade, or against the public health, or to the disturbance of the public peace, or injurious to public morals, or outraging decency.	Imprisonment not exceeding 2 years and a fine	-
2 . 17	85	Sexual activity in a public place causing harassment, alarm or distress An offence is committed by A by engaging in sexual activity in a place to which some or all of the public may have access and within the hearing or sight of a person likely to be caused harassment, annoyance, alarm or distress thereby.	Summary - a level 3 fine	Public Order Act 1998 s.3	Harassment, alarm or distress An offence is committed by A by using threatening, abusive or insulting words or behaviour, or disorderly behaviour; or by displaying any writing, sign or other visible representation which is threatening, abusive or insulting ; within the hearing or sight of a person likely to be caused harassment, annoyance, alarm or distress thereby.	Summary - a fine (£1,000/£2,000)	-
2 . 17	86	Abduction by force An offence is committed by A by taking away or detaining B against B's will by force, with the intention of committing any offence under Part 2 of this Act (except an offence under s.87), including aiding, abetting, etc.	On information - 14 years' custody	Sexual Offences Act 1992 s.15	Abduction by force An offence is committed by A by taking away or detaining B against B's will by force with the intent that B will commit a sexual act.	On information - imprisonment not exceeding 14 years	Any reference under the SOA to a "sexual act" is to mean sexual intercourse or buggery only.
2 . 17	87	Duty to notify police of possible victims of child sexual abuse An offence is committed by A by failing to comply with the duty to make a "child sexual abuse notification" when, as a worker in a regulated profession, in the course of work, A discovers that a child appears to have been the victim of any offence under Part 2 of this Act.	On information - 2 years' custody Summary - 12 months' custody or a level 5 fine or both	N/A	Not currently a distinguishable criminal offence.	N/A	Duty for certain professions to have safeguarding policies in place which require staff to report. Could be found liable under a negligence claim for failing to take action where it is found that a duty of care was owed.
2 . 17	88	Conversion therapy An offence is committed by A by practising, or offering to practise, conversion therapy.	On information - 2 years' custody Summary - 12 months' custody or a level 5 fine or both	N/A	Not currently an offence.	N/A	-

SEXUAL OFFENCES AND OBSCENE PUBLICATIONS BILL				EXISTING LEGISLATION			ADDITIONAL COMMENTS
PART DIVISION	SECTION (CLAUSE)	OFFENCE	MAXIMUM PENALTY	ACT SECTION	(POTENTIAL) CORRESPONDING OFFENCE(S)	CORRESPONDING MAXIMUM PENALTY	
3	97	Indecent displays An offence is committed by A by causing or permitting an indecent matter to be publicly displayed. For this offence "matter" does not include an actual human body or any part thereof.	On information - 2 years' custody or a fine or both Summary - a level 5 fine	The Vagrancy Act 1896 <u>1</u> - s.2(4) Obscene Publications and Indecent Advertisements Act 1907 <u>2</u> - s.4	1 - Under The Vagrancy Act 1896: Indecent exhibitions An offence is committed by A by wilfully exposing to view in any street, road, or highway, or in any open area, or in any public place, or in any open place to which the public have, or are permitted to have, access, any obscene picture, print, or any other indecent exhibition. 2 - Under the Obscene Publications and Indecent Advertisements Act 1907: Summary proceedings against persons affixing, etc, indecent or obscene pictures, or printed or written matter An offence is committed by A by affixing, inscribing, delivering, exhibiting etc. any picture or printed or written matter or other exhibition, which is of an indecent or obscene character, in or visible from a public place, street, highway, footpath etc.	1 - Indecent exhibitions Imprisonment not exceeding 3 months, with or without hard labour 2 - Summary proceedings... On information - imprisonment for a term not exceeding 2 years or a fine or both Summary - imprisonment for a term not exceeding 3 months or a fine (£1,000/£2,000) or both	-
4	100	Possession of extreme pornographic images An offence is committed by A by being in possession of an extreme pornographic image. <u>S.100(8) applies</u> where the image portrays an act which takes or threatens a person's life; an act which results, or is likely to result, in a person's severe injury; or rape or other non-consensual penetrative sexual activity. <u>S.100(9) applies</u> where the image does not portray any of the acts listed above for s.100(8).	<u>Where s.100(8) applies:</u> On information - 3 years' custody or a fine or both Summary - 12 months' custody or a level 5 fine or both <u>Where s.100(9) applies:</u> On information - 2 years' custody or a fine or both Summary - 12 months' custody or a level 5 fine or both	N/A	Not currently a distinguishable offence.	N/A	-
6	111	Voyeurism An offence is committed by A by observing B engaged in a private act in order to gain sexual gratification whilst knowing that B does not consent to being observed. An offence is committed by A by operating equipment to enable any other person to observe an act as described above.	On information - 3 years' custody Summary - 12 months' custody or a level 5 fine or both	The Criminal Code 1872 s.347	Other offences not specified An offence is committed by A by doing any other act or thing (not in this Code or in any other unrepealed Act of Tynwald or bye-law made by authority of any Act of Tynwald, specified or referred to, or otherwise provided for by law), in contempt of God or religion, or in contempt of the Queen's Government, or against public justice, or against public trade, or against the public health, or to the disturbance of the public peace, or injurious to public morals, or outraging decency.	Imprisonment not exceeding 2 years and a fine	-
6	113	Recording intimate image without consent An offence is committed by A by intentionally recording an intimate image of B without B's consent and with knowledge of, or recklessness as to, B's lack of consent. An offence is committed by A by installing equipment etc. with the intention of enabling any person to record an intimate image of B as above.	On information - 3 years' custody Summary - 12 months' custody or a level 5 fine or both	The Criminal Code 1872 s.347	Other offences not specified An offence is committed by A by doing any other act or thing (not in this Code or in any other unrepealed Act of Tynwald or bye-law made by authority of any Act of Tynwald, specified or referred to, or otherwise provided for by law), in contempt of God or religion, or in contempt of the Queen's Government, or against public justice, or against public trade, or against the public health, or to the disturbance of the public peace, or injurious to public morals, or outraging decency.	Imprisonment not exceeding 2 years and a fine	-
6	114	Distributing intimate image An offence is committed by A by intentionally distributing an intimate image of B without B's consent and with knowledge of, or recklessness as to, B's lack of consent. An offence is also committed by A by distributing an intimate image of A.	On information - 3 years' custody Summary - 12 months' custody or a level 5 fine or both	Obscene Publications and Indecent Advertisements Act 1907 s.2	Penalty for printing, selling etc., indecent or obscene publications An offence is committed by A by printing, manufacturing, keeping, distributing, selling, exhibiting etc. any indecent or obscene book, paper, writing, print, picture, drawing, photograph, image, figure, or other representation.	On information - imprisonment for a term not exceeding 2 years or a fine or both Summary - imprisonment for a term not exceeding 3 months or a fine (£1,000/£2,000) or both	-
6	115	Threatening to record or distribute intimate image An offence is committed by A by threatening to record an intimate image of B without B's consent and with intent to cause B fear that the threat will be carried out. An offence is committed by A by threatening to distribute such an image without B's consent and with intent to cause B fear that the threat will be carried out.	On information - 3 years' custody Summary - 12 months' custody or a level 5 fine or both	N/A	Not currently a distinguishable offence.	N/A	-
6	116	Court may order rectification The court may order anyone found guilty of offences under sections 113-115 to take reasonable actions to remove, retract, destroy, etc. the image in question. An offence is committed by A by contravening such an order.	Summary - 12 months' custody or a level 5 fine or both	N/A	Not currently a distinguishable offence.	N/A	-