

## **TOUGH, FAIR, MODERN – SEX LAWS FOR THE 21<sup>ST</sup> CENTURY START**

The most radical reform of sex offences for more than 100 years, including new laws protecting the young and vulnerable and tougher penalties for dangerous criminals, come into force tomorrow.

Clear, coherent laws which reflect modern society by ending discrimination and responding to new threats are at the heart of the Sexual Offences Act 2003. The Act also strengthens the monitoring of offenders on the sex offenders register. It demonstrates the Government's commitment to support victims and signal that offenders will be heavily punished for their crimes.

Home Secretary David Blunkett said:

“All crimes are traumatic for victims, but sexual crimes can have the most devastating impact on the individual and the community. The modern world of the internet means vile, degrading material is just a click away and mass communications can make it easier for offenders to contact vulnerable people and the young.

“Until now our sex offences laws were based on the Victorian era – their values and the world they lived in. Change was needed to reflect the values of today's society and offer protection against crimes which did not exist generations ago.

“New laws offer increased protection, especially to children and vulnerable people, combat modern crimes such as grooming and, for the first time, do away with discrimination by applying the law equally to men and women.

“The Act clearly defines what is acceptable and what is not. In rape cases we have defined consent and set out a series of situations where a court will start from the presumption that consent was unlikely to be given; sex with 12-year-olds and under will automatically be charged as rape and those who abuse children and vulnerable adults while in a position of trust or care will be dealt with severely.

“We are getting tough in order to protect the public by clamping down on those who destroy the lives of others.”

Paul Goggins, Home Office minister, said:

“This Act has been designed to make it easier for the criminal justice system to obtain successful prosecutions and provide victims with the confidence to come forward.

“The message to victims is clear – you do not have to suffer in silence, help is available and the police, courts and other agencies are on your side. Offenders should know they face tough sentences and stringent controls when they commit their crimes.”

The Act includes:

- sex with 12-year-olds and under will automatically be charged as rape which carries a maximum sentence of life;
- clarification of the law on consent in regard to rape and the extension of the definition of rape;
- a new grooming offence with a 10 year maximum jail sentence;
- all those on the sex offenders’ register to confirm their details in person annually;
- strengthening drug rape offences;
- orders banning those convicted of a sex offence against under-16s from travelling anywhere in the world;
- stronger protection for vulnerable people; and
- a new offence of trafficking people for sexual exploitation with up to 14 years in prison for offenders.

Christine Atkinson, Policy Advisor for the NSPCC said:

“This is the most significant package of sex offence legislation in many years. For too long, child sex offenders have been able to walk away from their crimes with short and insufficient sentences. Increasing prison terms to 14 years or in certain cases life, means that at last, sex abusers will feel the full force of the law when they are sentenced.”

Deputy Assistant Commissioner John Yates, ACPO lead for the investigation of rape and representing the Metropolitan Police’s Project Sapphire, said:

“The legislation has benefited from the widest consultation and the police service welcomes its introduction. It is comprehensive and well thought through and at last modernises legislation going back to both 1956 and Victorian times.

“We have lobbied hard for many of the significant changes, particularly around the re-definition of the offence of rape and for the first time clear legal guidance around the definition of ‘consent’.

“These are dreadful crimes and the challenge for police remains. We need to ensure we continue to develop and enhance our response to these crimes at every level, including victim care, forensic recovery and training. Project Sapphire and other work nationally that has been done around the introduction of Sexual Assault Referral Centres is already bringing enormous benefits around victim care and increasing confidence in the police to investigate these crimes.”

Further measures in the Act, include:

### **Stronger protection for children**

- A range of new offences designed to tackle all inappropriate sexual activity with children, including a new offence of causing a child to engage in sexual activity – which will capture behaviour such as inappropriately persuading children to undress for sexual motives.
- A civil order to apply both on the Internet and off-line, which will enable restrictions to be placed on people displaying inappropriate sexual behaviour towards a child before an offence is committed.
- New offences relating to sexual exploitation of a child that will protect children up to the age of 18. They will cover a range of activity including: buying the sexual services of a child, causing or encouraging children into sexual exploitation, facilitating the sexual exploitation of a child and controlling the activities of a child involved in prostitution or pornography.
- Maximum penalties for many sexual offences against children and vulnerable people have been raised to reflect the severity of these crimes.
- Updated offences relating to sexual activity with a child family member to better reflect the modern family and offer more protection to children.

### **Stronger protection for vulnerable people**

- Three new categories of offences to give extra protection to those with a learning disability or mental disorder from sexual abuse. Including ‘breach of a relationship of care’, to protect those who are vulnerable to exploitative behaviour from their carers.

### **Stronger protection for the public**

- A new order to make those known to have been convicted of sex offences overseas register as sex offenders when they come to the UK, whether or not they have committed a crime here.
- Offenders on the register to provide National Insurance details as a further safeguard against evasion. And new powers to enable the police to cross-check details of offenders on the register with passport, National Insurance and driving licence records, once the infrastructure is in place, so that any breaches can be identified more quickly.

- The period within which a sex offender must notify the police of a change of name or address to be reduced from 14 days to three.
- Sex Offender Orders and Sex Offender Restraining Orders to be amalgamated into a Sexual Offences Prevention Order (SOPO); it will be possible to make such an order on anyone convicted of a violent offence where there is evidence they present a risk of causing serious sexual harm.
- A new law to deal with people who commit an offence with the intention of committing a sex offence.
- A new offence to protect the public from unacceptable sexual acts in public toilets, complementing existing public order offences.
- A new offence to strengthen the law on indecent exposure.
- A new offence of voyeurism capturing those who observe others doing private acts without their knowledge for sexual gratification.

#### **Stronger offences for sexual violence**

- Clarifying the law on consent in regard to rape. A defendant's belief that the victim consented must be both honest and reasonable.
- A new offence of sexual assault by penetration.
- A new offence of causing sexual acts without consent.
- Rape extended to include penetration of the mouth by the penis.

#### **Stronger offences to deal with sexual exploitation**

- In addition to the new offences relating to commercial sexual exploitation of children, there will be new offences relating to the commercial sexual exploitation of adults.

#### **Equality in the law for men and women**

- Offences of buggery and indecency between men, which criminalise certain consensual homosexual activities, which would not be illegal for heterosexuals are to be repealed.
- Men who have been convicted of these offences where the activity was consensual and the victim was over 16 can apply to be taken off the sex offender's register.

#### **Clarification on the position of those advising children on sexual matters**

- Exemptions from prosecution for aiding or abetting a child sex offence for people who provide advice to children on sexual health in order to protect

their physical safety or emotional well being, or to prevent sexually transmitted disease or pregnancy.

- Guidance is being issued to prosecutors provides that prosecutions for sexual activity between children under the age of 16 are unlikely to be in the public interest where the activity is genuinely consensual and the parties are of a similar age. However, it is important the criminal law covers under-age sexual activity in order to protect those who are victims of abuse. For example, we have to be able to prosecute a 15-year-old boy who maybe targeting a 12-year-old girl with predatory behaviour.

#### **NOTES TO EDITORS:**

1. The Sexual Offences Act 2003 gained Royal Assent on 20 November 2003 (Home Office press notice 319/2003).
2. Further information on the Act, including guidance and explanatory notes, is available at [www.homeoffice.gov.uk](http://www.homeoffice.gov.uk)
3. The proposals were developed from the Sex Offences Review set up by the Government in 1999. The Review was conducted independently of Ministers and with the following terms of reference:
  - to provide coherent and clear offences which protect individuals, especially children and the more vulnerable, from abuse and exploitation;
  - to enable abusers to be properly punished; and
  - to be fair and non-discriminatory.The recommendations of the independent Review were published for public consultation in 'Setting the Boundaries' in July 2000 (available on [www.homeoffice.gov.uk](http://www.homeoffice.gov.uk)).
4. In addition the Government carried out a Review of the Sex Offenders Act and proposals were published for public consultation by Home Office in July 2001 (see Home Office press notice 184/2001).
5. Also coming into effect today is a provision in the Criminal Justice Act 2003 to extend the circumstances in which a disqualification order can be made. (A disqualification order stops people from working with children if they have been convicted of one of a list of specified sexual and violent offences committed against a child, with a qualifying sentence. A qualifying sentence includes 12 months or more imprisonment or an equivalent sentence.)

Senior courts will now be given a discretionary power to make a disqualification order on an offender, whether an adult or a child, convicted of one of the specified offences against a child but whose sentence does not meet the sentence threshold of twelve months. The court will need to be satisfied that the offender is likely to commit a further offence against a child. This will enable the court to disqualify someone who poses a

continuing risk to children from working with them, regardless of the sentence passed. The Criminal Justice Act also provided a discretionary power to the CPS to apply to the court for an order to be made in cases which meet the qualifying criteria for an order but in which the sentencing court appears not to have considered the making of an order. These amendments were necessary to ensure the scheme works as effectively as possible.