



# Justice (Sexual Offences and Trafficking Victims) Act (Northern Ireland) 2022

## 2022 CHAPTER 19

An Act to make provision about and in connection with sexual offences; regulate particular matters relating to cases of trafficking or exploitation; and amend certain rules of law and procedure for the purpose of protecting people from harm. [27th April 2022]

BE IT ENACTED by being passed by the Northern Ireland Assembly and assented to by Her Majesty as follows:

### PART 1

#### Sexual offences

#### CHAPTER 1

#### Criminal conduct

#### **Voyeurism: additional offences**

1.—(1) The Sexual Offences (Northern Ireland) Order 2008 is amended in accordance with subsections (2) and (3).

(2) After Article 71 (voyeurism) insert—

#### **“Voyeurism: additional offences (genitals and buttocks)**

71A.—(1) A person (A) commits an offence if—

- (a) A operates equipment beneath the clothing of another person (B),
  - (b) A does so with the intention of enabling A or another person (C) to observe—
    - (i) B's genitals or buttocks (whether exposed or covered with underwear), or
    - (ii) the underwear covering B's genitals or buttocks,in circumstances where the genitals, buttocks or underwear would not otherwise be visible, and
  - (c) either condition 1 or condition 2 is met.
- (2) Condition 1 is that—
- (a) A operates the equipment with the intention of enabling the observation for the purpose of—
    - (i) obtaining sexual gratification (whether for A or C), or
    - (ii) humiliating, alarming or distressing B, and
  - (b) A does so—
    - (i) without B's consent, and
    - (ii) without reasonably believing that B consents.
- (3) Condition 2 is that—
- (a) A operates the equipment with the intention of enabling the observation—
    - (i) without B's consent, and
    - (ii) without reasonably believing that B consents,
  - (b) in so operating the equipment, A is reckless as to whether B is humiliated, alarmed or distressed, and
  - (c) B is humiliated, alarmed or distressed.
- (4) A person (A) commits an offence if—
- (a) A records an image beneath the clothing of another person (B),
  - (b) the image is of—
    - (i) B's genitals or buttocks (whether exposed or covered with underwear), or
    - (ii) the underwear covering B's genitals or buttocks,in circumstances where the genitals, buttocks or underwear would not otherwise be visible, and
  - (c) either condition 3 or condition 4 is met.
- (5) Condition 3 is that—

- (a) A records the image with the intention that A or another person (C) will look at it for the purpose of—
  - (i) obtaining sexual gratification (whether for A or C), or
  - (ii) humiliating, alarming or distressing B, and
- (b) A does so—
  - (i) without B’s consent, and
  - (ii) without reasonably believing that B consents.
- (6) Condition 4 is that—
  - (a) A records the image with the intention that A or another person will look at it,
  - (b) A does so—
    - (i) without B’s consent, and
    - (ii) without reasonably believing that B consents,
  - (c) in so recording the image, A is reckless as to whether B is humiliated, alarmed or distressed, and
  - (d) B is humiliated, alarmed or distressed.
- (7) Paragraph (8) applies where—
  - (a) B consents to the operation of equipment, or the recording of an image, for a particular purpose, and
  - (b) A operates the equipment, or records the image, for a different or additional purpose.
- (8) Where this paragraph applies, then for the purposes of paragraph (3)(a) or paragraph (6)(b) (as the case may be)—
  - (a) B is to be taken as having not consented to the operation of the equipment or the recording of the image, and
  - (b) A is to be taken as having had a reasonable belief as to B’s consent only if A had a reasonable belief that B consented to the operation of the equipment, or the recording of the image, for the other purpose.
- (9) A person guilty of an offence under this Article is liable—
  - (a) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum or both;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years.

**Voyeurism: additional offences (breasts)**

**71B.—**(1) A person (A) commits an offence if—

- (a) A operates equipment beneath or above the clothing of another person (B),
  - (b) A does so with the intention of enabling A or another person (C) to observe—
    - (i) B's breasts (whether exposed or covered with underwear), or
    - (ii) the underwear covering B's breasts,in circumstances where the breasts or underwear would not otherwise be visible, and
  - (c) either condition 1 or condition 2 is met.
- (2) Condition 1 is that—
- (a) A operates the equipment with the intention of enabling the observation for the purpose of—
    - (i) obtaining sexual gratification (whether for A or C), or
    - (ii) humiliating, alarming or distressing B, and
  - (b) A does so—
    - (i) without B's consent, and
    - (ii) without reasonably believing that B consents.
- (3) Condition 2 is that—
- (a) A operates the equipment with the intention of enabling the observation—
    - (i) without B's consent, and
    - (ii) without reasonably believing that B consents,
  - (b) in so operating the equipment, A is reckless as to whether B is humiliated, alarmed or distressed, and
  - (c) B is humiliated, alarmed or distressed.
- (4) A person (A) commits an offence if—
- (a) A records an image beneath or above the clothing of another person (B),
  - (b) the image is of—
    - (i) B's breasts (whether exposed or covered with underwear), or
    - (ii) the underwear covering B's breasts,in circumstances where the breasts or underwear would not otherwise be visible, and
  - (c) either condition 3 or condition 4 is met.
- (5) Condition 3 is that—

- (a) A records the image with the intention that A or another person (C) will look at it for the purpose of—
  - (i) obtaining sexual gratification (whether for A or C), or
  - (ii) humiliating, alarming or distressing B, and
- (b) A does so—
  - (i) without B’s consent, and
  - (ii) without reasonably believing that B consents.
- (6) Condition 4 is that—
  - (a) A records the image with the intention that A or another person will look at it,
  - (b) A does so—
    - (i) without B’s consent, and
    - (ii) without reasonably believing that B consents,
  - (c) in so recording the image, A is reckless as to whether B is humiliated, alarmed or distressed, and
  - (d) B is humiliated, alarmed or distressed.
- (7) Paragraph (8) applies where—
  - (a) B consents to the operation of equipment, or the recording of an image, for a particular purpose, and
  - (b) A operates the equipment, or records the image, for a different or additional purpose.
- (8) Where this paragraph applies, then for the purposes of paragraph (3)(a) or paragraph (6)(b) (as the case may be)—
  - (a) B is to be taken as having not consented to the operation of the equipment or the recording of the image, and
  - (b) A is to be taken as having had a reasonable belief as to B’s consent only if A had a reasonable belief that B consented to the operation of the equipment, or the recording of the image, for the other purpose.
- (9) A person guilty of an offence under this Article is liable—
  - (a) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum or both;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years.”.
- (3) In Article 72 (voyeurism: interpretation), after paragraph (1) insert—
  - “(1A) For the purposes of Articles 71, 71A and 71B operating equipment includes (in the case of equipment that is capable of activation) enabling or securing its activation by another person without that person’s knowledge.”.