



Number 15 of 2006

CRIMINAL LAW (SEXUAL OFFENCES) ACT 2006

REVISED

Updated to 27 March 2017

This Revised Act is an administrative consolidation of the *Criminal Law (Sexual Offences) Act 2006*. It is prepared by the Law Reform Commission in accordance with its function under the *Law Reform Commission Act 1975* (3/1975) to keep the law under review and to undertake revision and consolidation of statute law.

All Acts up to and including *Health (Amendment) Act 2017* (5/2017), enacted 31 March 2017, and all statutory instruments up to and including *Criminal Law (Sexual Offences) Act 2017 (Commencement) Order 2017* (S.I. No. 112 of 2017), made 23 March 2017, were considered in the preparation of this revision.

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Introduction

This Revised Act presents the text of the Act as it has been amended since enactment, and preserves the format in which it was first passed.

Related legislation

This Act is not collectively cited with any other Act.

Annotations

This Revised Act is annotated and includes textual and non-textual amendments, statutory instruments made pursuant to the Act and previous affecting provisions. A version without annotations, showing only textual amendments, is also available.

An explanation of how to read annotations is available at www.lawreform.ie/annotations

Material not updated in this revision

Where other legislation is amended by this Act, those amendments may have been superseded by other amendments in other legislation, or the amended legislation may have been repealed or revoked. This information is not represented in this revision but will be reflected in a revision of the amended legislation if one is available.

Where legislation or a fragment of legislation is referred to in annotations, changes to this legislation or fragment may not be reflected in this revision but will be reflected in a revision of the legislation referred to if one is available.

A list of legislative changes to any Act, and to statutory instruments from 1996, may be found linked from the page of the Act or statutory instrument at www.irishstatutebook.ie.

Acts which affect or previously affected this revision

- *Criminal Law (Sexual Offences) Act 2017 (2/2017)*
- *Taxi Regulation Act 2013 (37/2013)*
- *Criminal Justice (Withholding of Information on Offences against Children and Vulnerable Persons) Act 2012 (24/2012)*

- *Criminal Procedure Act 2010* (27/2010)
- *Civil Law (Miscellaneous Provisions) Act 2008* (14/2008)
- *Criminal Law (Human Trafficking) Act 2008* (8/2008)
- *Criminal Law (Sexual Offences) (Amendment) Act 2007* (6/2007)
- *Civil Legal Aid Act 1995* (32/1995)
- *Criminal Law (Sexual Offences) Act 1993* (20/1993)
- *Criminal Evidence Act 1992* (12/1992)

All Acts up to and including *Health (Amendment) Act 2017* (5/2017), enacted 31 March 2017, were considered in the preparation of this revision.

Statutory instruments which affect or previously affected this revision

- None

All statutory instruments up to and including *Criminal Law (Sexual Offences) Act 2017 (Commencement) Order 2017* (S.I. No. 112 of 2017), made 23 March 2017, were considered in the preparation of this revision.



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ARRANGEMENT OF SECTIONS

Section

1. Definitions.
2. Defilement of child under 15 years of age.
3. Defilement of child under 17 years of age.
- 3A. Offence by person in authority.
4. Summary trial of offences.
5. Female child under 17 years of age not guilty of offence.
6. Application of certain enactments.
7. Amendment of certain enactments.
8. Repeals.
9. Short title.

SCHEDULE

Enactments Repealed

ACTS REFERRED TO

Bail Act 1997	1997, No. 16
Children Act 2001	2001, No. 24
Criminal Evidence Act 1992	1992, No. 12
Criminal Law (Rape)(Amendment) Act 1990	1990, No. 32
Criminal Law (Rape) Act 1981	1981, No. 10
Criminal Law (Sexual Offences) Act 1993	1993, No. 20
Criminal Law Act 1997	1997, No. 14
Criminal Law Amendment Act 1935	1935, No. 6
Sex Offenders Act 2001	2001, No. 18
Sexual Offences (Jurisdiction) Act 1996	1996, No. 38



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AN ACT TO PROVIDE FOR OFFENCES IN RELATION TO THE COMMISSION OF SEXUAL ACTS WITH CHILDREN UNDER THE AGE OF 17 YEARS; AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH.

[2nd June, 2006]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

Annotations

Editorial Notes:

- E1** Offences under Act included in definition of “sexual offence” in *Criminal Evidence Act 1992* (12/1992), s. 2, (7.06.2008) by *Criminal Law (Human Trafficking) Act 2008* (8/2008), s. 12(a)(ii), commenced as per s. 15(2).
- E2** Entitlement of complainant to free legal advice in a prosecution for an offence under Act provided by *Civil Legal Aid Act 1995* (32/1995), s. 26(3)(b), as amended (7.03.2007) by *Criminal Law (Sexual Offences)(Amendment) Act 2007* (6/2007), s. 3(4), commenced on enactment, and subsequently amended (20.07.2008) by *Civil Law (Miscellaneous Provisions) Act 2008* (14/2008), s. 78(b), S.I. No. 274 of 2008.

Definitions.

1.— In this Act—

“Act of 1981” means the Criminal Law (Rape) Act 1981;

“Act of 1990” means the Criminal Law (Rape) (Amendment) Act 1990;

F1 [‘foster parent’ means a person other than a relative of a child who is caring for the child on behalf of the Child and Family Agency in accordance with regulations made under the Child Care Act 1991;]

F2 [“person in authority”, in relation to a child against whom an offence is alleged to have been committed, means—

(a) a parent, grandparent, uncle or aunt whether of the whole blood, of the half blood or by affinity of the child,

(b) a current or former guardian or foster parent of the child,

(c) a current or former step-parent of the child,

- (d) a current or former partner of a parent of the child who lives or has lived in an enduring family relationship with the parent,
- (e) any person who is for the time being, or has been, *in loco parentis* to the child, or
- (f) any other person who is or has been responsible for the education, supervision, training, care or welfare of the child;]

“sexual act” means—

- (a) an act consisting of—
 - (i) sexual intercourse, or
 - (ii) buggery,between persons who are not married to each other, or
- (b) an act described in section 3(1) or 4(1) of the Act of 1990;

“sexual intercourse” shall be construed in accordance with section 1(2) of the Act of 1981.

Annotations

Amendments:

- F1** Inserted (27.03.2017) by *Criminal Law (Sexual Offences) Act 2017 (2/2017)*, s. 15(b), S.I. No. 112 of 2017.
- F2** Substituted (27.03.2017) by *Criminal Law (Sexual Offences) Act 2017 (2/2017)*, s. 15(a), S.I. No. 112 of 2017.

Defilement of
child under 15
years of age

F3[2. (1) A person who engages in a sexual act with a child who is under the age of 15 years shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for life or a lesser term of imprisonment.

(2) A person who attempts to engage in a sexual act with a child who is under the age of 15 years shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for life or a lesser term of imprisonment.

(3) It shall be a defence to proceedings for an offence under this section for the defendant to prove that he or she was reasonably mistaken that, at the time of the alleged commission of the offence, the child against whom the offence is alleged to have been committed had attained the age of 15 years.

(4) Where, in proceedings for an offence under this section, it falls to the court to consider whether the defendant was reasonably mistaken that, at the time of the alleged commission of the offence, the child against whom the offence is alleged to have been committed had attained the age of 15 years, the court shall consider whether, in all the circumstances of the case, a reasonable person would have concluded that the child had attained the said age.

(5) The standard of proof required to prove that the defendant was reasonably mistaken that the child had attained the age of 15 years shall be that applicable to civil proceedings.

(6) It shall not be a defence to proceedings for an offence under this section for the defendant to prove that the child against whom the offence is alleged to have been committed consented to the sexual act of which the offence consisted.]

Annotations**Amendments:**

- F3** Substituted (27.03.2017) by *Criminal Law (Sexual Offences) Act 2017 (2/2017)*, s. 16, S.I. No. 112 of 2017.

Modifications (not altering text):

- C1** Application of section extended (27.03.2017) by *Criminal Law (Sexual Offences) Act 2017 (2/2017)*, s. 42, S.I. No. 112 of 2017.

Jurisdiction

42. (1) Where a person who is an Irish citizen or ordinarily resident in the State does an act against a child in a place other than the State that, if done in the State, would constitute rape, sexual assault, an offence under section 4A, 5(1)(a) or 5A(1) of the Act of 1998, or an offence under section 2, 3 or 3A of the Act of 2006, he or she shall be guilty of that offence.

(2) Where a person conspires with, or incites, in the State, another person to do an act against a child in a place other than the State that, if done in the State, would constitute rape, sexual assault, an offence under section 4A, 5(1)(a) or 5A(1) of the Act of 1998, or an offence under section 2, 3 or 3A of the Act of 2006, he or she shall be guilty of an offence.

(3) Where a person who is an Irish citizen or ordinarily resident in the State conspires with, or incites, in a place other than the State, another person to do an act against a child in a place other than the State that, if done in the State, would constitute rape, sexual assault, an offence under section 4A, 5(1)(a) or 5A(1) of the Act of 1998, or an offence under section 2, 3 or 3A of the Act of 2006, he or she shall be guilty of an offence.

(4) Where a person attempts to commit an offence under *subsection (2) or (3)*, he or she shall be guilty of an offence.

(5) A person found guilty of an offence under this section shall be liable on conviction to the penalty to which he or she would have been liable had the act that constituted the offence been done in the State.

(6) For the purposes of this section a person shall be deemed to be ordinarily resident in the State if—

- (a) he or she has had his or her principal residence in the State for the period of 12 months immediately preceding the alleged commission of the offence,
- (b) it is a company formed and registered under the Companies Act 2014 or an existing company within the meaning of that Act, or
- (c) in the case of any other body corporate, it is established under the law of the State.

Editorial Notes:

- E3** Offence under section included in definition of “specified offence” for purposes of *Taxi Regulation Act 2013 (37/2013)* (6.04.2014) by *Taxi Regulation Act 2013 (37/2013)*, s. 30 and sch. part 1 item 11, S.I. No. 163 of 2014.
- E4** Offence under section included in sch. 1 (offences against children for purposes of offence under s. 2) to *Criminal Justice (Withholding of Information on Offences against Children and Vulnerable Persons) Act 2012 (24/2012)* (1.08.2012) by *Criminal Justice (Withholding of Information on Offences against Children and Vulnerable Persons) Act 2012 (24/2012)*, s. 2 and sch. 1, S.I. No. 281 of 2012.
- E5** Offence under section included in definition of “relevant offence” for purposes of *Criminal Procedure Act 2010 (27/2010)*, part 3, (1.09.2010) by *Criminal Procedure Act 2010 (27/2010)*, s. 7 and sch., S.I. No. 414 of 2010.
- E6** Previous affecting provision: application of section extended (7.03.2007) by *Criminal Law (Sexual Offences) Act 1993 (20/1993)*, s. 6; as substituted (2.06.2006) by *Criminal Law (Sexual Offences) (Amendment) Act 2007 (6/2007)*, s. 2, commenced on enactment; substituted as per F-note above.

Defilement of
child under 17
years of age

F4[3. (1) A person who engages in a sexual act with a child who is under the age of 17 years shall be guilty of an offence and shall be liable on conviction on indictment—

(a) to imprisonment for a term not exceeding 7 years, or

(b) if he or she is a person in authority, to imprisonment for a term not exceeding 15 years.

(2) A person who attempts to engage in a sexual act with a child who is under the age of 17 years shall be guilty of an offence and shall be liable on conviction on indictment—

(a) to imprisonment for a term not exceeding 7 years, or

(b) if he or she is a person in authority, to imprisonment for a term not exceeding 15 years.

(3) It shall be a defence to proceedings for an offence under this section for the defendant to prove that he or she was reasonably mistaken that, at the time of the alleged commission of the offence, the child against whom the offence is alleged to have been committed had attained the age of 17 years.

(4) Where, in proceedings for an offence under this section, it falls to the court to consider whether the defendant was reasonably mistaken that, at the time of the alleged commission of the offence, the child against whom the offence is alleged to have been committed had attained the age of 17 years, the court shall consider whether, in all the circumstances of the case, a reasonable person would have concluded that the child had attained the said age.

(5) The standard of proof required to prove that the defendant was reasonably mistaken that the child had attained the age of 17 years shall be that applicable to civil proceedings.

(6) Subject to *subsection (8)*, it shall not be a defence to proceedings for an offence under this section for the defendant to prove that the child against whom the offence is alleged to have been committed consented to the sexual act of which the offence consisted.

(7) No proceedings for an offence under this section against a child under the age of 17 years shall be brought except by, or with the consent of, the Director of Public Prosecutions.

(8) Where, in proceedings for an offence under this section against a child who at the time of the alleged commission of the offence had attained the age of 15 years but was under the age of 17 years, it shall be a defence that the child consented to the sexual act of which the offence consisted where the defendant—

(a) is younger or less than 2 years older than the child,

(b) was not, at the time of the alleged commission of the offence, a person in authority in respect of the child, and

(c) was not, at the time of the alleged commission of the offence, in a relationship with the child that was intimidatory or exploitative of the child.]

Annotations

Amendments:

- F4 Substituted (27.03.2017) by *Criminal Law (Sexual Offences) Act 2017 (2/2017)*, s. 17, S.I. No. 112 of 2017.

Modifications (not altering text):

- C2** Application of section extended (27.03.2017) by *Criminal Law (Sexual Offences) Act 2017* (2/2017), s. 42, S.I. No. 112 of 2017.

Jurisdiction

- 42.** (1) Where a person who is an Irish citizen or ordinarily resident in the State does an act against a child in a place other than the State that, if done in the State, would constitute rape, sexual assault, an offence under section 4A, 5(1)(a) or 5A(1) of the Act of 1998, or an offence under section 2, 3 or 3A of the Act of 2006, he or she shall be guilty of that offence.
- (2) Where a person conspires with, or incites, in the State, another person to do an act against a child in a place other than the State that, if done in the State, would constitute rape, sexual assault, an offence under section 4A, 5(1)(a) or 5A(1) of the Act of 1998, or an offence under section 2, 3 or 3A of the Act of 2006, he or she shall be guilty of an offence.
- (3) Where a person who is an Irish citizen or ordinarily resident in the State conspires with, or incites, in a place other than the State, another person to do an act against a child in a place other than the State that, if done in the State, would constitute rape, sexual assault, an offence under section 4A, 5(1)(a) or 5A(1) of the Act of 1998, or an offence under section 2, 3 or 3A of the Act of 2006, he or she shall be guilty of an offence.
- (4) Where a person attempts to commit an offence under *subsection (2) or (3)*, he or she shall be guilty of an offence.
- (5) A person found guilty of an offence under this section shall be liable on conviction to the penalty to which he or she would have been liable had the act that constituted the offence been done in the State.
- (6) For the purposes of this section a person shall be deemed to be ordinarily resident in the State if—
- (a) he or she has had his or her principal residence in the State for the period of 12 months immediately preceding the alleged commission of the offence,
- (b) it is a company formed and registered under the Companies Act 2014 or an existing company within the meaning of that Act, or
- (c) in the case of any other body corporate, it is established under the law of the State.

Editorial Notes:

- E7** Offence under section included in definition of “specified offence” for purposes of *Taxi Regulation Act 2013* (37/2013) (6.04.2014) by *Taxi Regulation Act 2013* (37/2013), s. 30 and sch. part 2 item 7, S.I. No. 163 of 2014.
- E8** Offence under section included in sch. 1 (offences against children for purposes of offence under s. 2) to *Criminal Justice (Withholding of Information on Offences against Children and Vulnerable Persons) Act 2012* (24/2012) (1.08.2012) by *Criminal Justice (Withholding of Information on Offences against Children and Vulnerable Persons) Act 2012* (24/2012), s. 2 and sch. 1, S.I. No. 281 of 2012.
- E9** Previous affecting provision: application of section extended (7.03.2007) by *Criminal Law (Sexual Offences) Act 1993* (20/1993), s. 6; substituted by *Criminal Law (Sexual Offences) (Amendment) Act 2007* (6/2007), s. 2, commenced on enactment; substituted as per F-note above.
- E10** Previous affecting provision: section amended (7.03.2007) by *Criminal Law (Sexual Offences) (Amendment) Act 2007* (6/2007), s. 5(1), commenced on enactment; substituted as per F-note above.

F5[Offence by person in authority

3A. (1) A person in authority who engages in a sexual act with a child who has attained the age of 17 years but is under the age of 18 years shall be guilty of an offence.

(2) A person who attempts to commit an offence under *subsection (1)* shall be guilty of an offence.

(3) It shall be a defence to proceedings for an offence under this section for the defendant to prove that he or she was reasonably mistaken that, at the time of the alleged commission of the offence, the child against whom the offence is alleged to have been committed had attained the age of 18 years.

(4) Where, in proceedings for an offence under this section, it falls to the court to consider whether the defendant was reasonably mistaken that, at the time of the alleged commission of the offence, the child against whom the offence is alleged to have been committed had attained the age of 18 years, the court shall consider whether, in all the circumstances of the case, a reasonable person would have concluded that the child had attained that age.

(5) The standard of proof required to prove that the defendant was reasonably mistaken that the child had attained the age of 18 years shall be that applicable to civil proceedings.

(6) It shall be a defence to proceedings for an offence under this section for the defendant to prove that he or she has reasonable grounds for believing that he or she was not a person in authority in relation to the child against whom the offence is alleged to have been committed.

(7) It shall not be a defence to proceedings for an offence under this section for the defendant to prove that the child against whom the offence is alleged to have been committed consented to the sexual act of which the offence consisted.

(8) A person guilty of an offence under this section shall be liable on conviction on indictment to imprisonment for a term not exceeding 10 years.]

Annotations

Amendments:

- F5** Inserted (27.03.2017) by *Criminal Law (Sexual Offences) Act 2017 (2/2017)*, s. 18, S.I. No. 112 of 2017.

Modifications (not altering text):

- C3** Application of section extended (27.03.2017) by *Criminal Law (Sexual Offences) Act 2017 (2/2017)*, s. 42, S.I. No. 112 of 2017.

Jurisdiction

42. (1) Where a person who is an Irish citizen or ordinarily resident in the State does an act against a child in a place other than the State that, if done in the State, would constitute rape, sexual assault, an offence under section 4A, 5(1)(a) or 5A(1) of the Act of 1998, or an offence under section 2, 3 or 3A of the Act of 2006, he or she shall be guilty of that offence.

(2) Where a person conspires with, or incites, in the State, another person to do an act against a child in a place other than the State that, if done in the State, would constitute rape, sexual assault, an offence under section 4A, 5(1)(a) or 5A(1) of the Act of 1998, or an offence under section 2, 3 or 3A of the Act of 2006, he or she shall be guilty of an offence.

(3) Where a person who is an Irish citizen or ordinarily resident in the State conspires with, or incites, in a place other than the State, another person to do an act against a child in a place other than the State that, if done in the State, would constitute rape, sexual assault, an offence under section 4A, 5(1)(a) or 5A(1) of the Act of 1998, or an offence under section 2, 3 or 3A of the Act of 2006, he or she shall be guilty of an offence.

(4) Where a person attempts to commit an offence under *subsection (2)* or *(3)*, he or she shall be guilty of an offence.

(5) A person found guilty of an offence under this section shall be liable on conviction to the penalty to which he or she would have been liable had the act that constituted the offence been done in the State.

(6) For the purposes of this section a person shall be deemed to be ordinarily resident in the State if—

- (a) he or she has had his or her principal residence in the State for the period of 12 months immediately preceding the alleged commission of the offence,
- (b) it is a company formed and registered under the Companies Act 2014 or an existing company within the meaning of that Act, or
- (c) in the case of any other body corporate, it is established under the law of the State.

Editorial Notes:

E11 The section heading is taken from the amending section in the absence of one included in the amendment.

Summary trial of offences.

4.— (1) The District Court may try summarily a person charged with an offence under *section 2(2) or 3(2)* if—

- (a) the court is of opinion that the facts alleged constitute a minor offence fit to be tried summarily,
- (b) the accused, on being informed by the court of his or her right to be tried with a jury, does not object to being tried summarily for the offence, and
- (c) the Director of Public Prosecutions consents to the accused being tried summarily for the offence.

(2) Upon conviction of a person by the District Court of an offence under this section, the person shall be liable to a fine not exceeding €5,000 or to imprisonment for a term not exceeding 12 months or to both.

Female child under 17 years of age not guilty of offence.

5.— A female child under the age of 17 years shall not be guilty of an offence under this Act by reason only of her engaging in an act of sexual intercourse.

Application of certain enactments.

6.— (1) Sections 3 and 4 of the Act of 1981 shall apply in relation to an offence under this Act subject to the modification that references in those sections to “sexual assault offence” shall be construed as including references to an offence under this Act.

F6[(1A) References in section 3 of the Act of 1981 to jury shall, in the case of summary proceedings for an offence under this Act, be construed as references to court.]

(2) Section 4A of the Act of 1981 is amended, in subsection (6), by the insertion after “rape offence” of “, an offence under the *Criminal Law (Sexual Offences) Act 2006*”.

(3) Sections 6, 7 and 8 of the Act of 1981 shall apply in relation to an offence under this Act subject to the modification that references in those sections to—

- (a) “sexual assault offence” shall be construed as including references to an offence under this Act, and
- (b) “rape offence” shall be construed as including references to an offence under this Act.

Annotations**Amendments:**

- F6** Inserted (7.03.2007) by *Criminal Law (Sexual Offences) (Amendment) Act 2007* (6/2007), s. 5(2), commenced on enactment.

Amendment of
certain enact-
ments.

- 7.—** (1) Section 8 of the Act of 1990 is amended—
- (a) in subsection (2), by the substitution of “*section 2 or 3 of the Criminal Law (Sexual Offences) Act 2006*” for “section 1 or 2 of the Criminal Law Amendment Act 1935”, and
- (b) in subsection (5), by—
- (i) the substitution of “*section 2 of the Criminal Law (Sexual Offences) Act 2006*” for “section 1 of the Criminal Law Amendment Act 1935”,
- (ii) the substitution of “*section 3 of the Criminal Law (Sexual Offences) Act 2006*” for “section 2 of the Criminal Law Amendment Act 1935”, and
- (iii) the substitution of “the said section 3 or *section 3 of the Criminal Law (Sexual Offences) Act 2006,*” for “the said section 2 or 3”.
- (2) Section 2 of the Criminal Evidence Act 1992 is amended, in the definition of “sexual offence”, by the substitution of the following paragraph for paragraph (iv):
- “(iv) the *Criminal Law (Sexual Offences) Act 2006* or section 5 of the Criminal Law (Sexual Offences) Act 1993;”.
- (3) The Schedule to the Sexual Offences (Jurisdiction) Act 1996 is amended by—
- (a) the substitution of the following paragraph for paragraph 1:
- “1. *Criminal Law (Sexual Offences) Act 2006.*”,
- and
- (b) the deletion of paragraphs 2, 7 and 8.
- (4) The Schedule to the Bail Act 1997 is amended by the substitution of the following paragraph for paragraph 10:
- “10. An offence under the *Criminal Law (Sexual Offences) Act 2006.*”.
- (5) The Schedule to the Sex Offenders Act 2001 is amended by—
- (a) the substitution of the following paragraph for paragraph 7:
- “7. An offence under the *Criminal Law (Sexual Offences) Act 2006.*”,
- and
- (b) the deletion of paragraph 8.
- (6) Schedule 1 to the Children Act 2001 is amended by the substitution of the following paragraph for paragraph 4:
- “4. Any offence under the *Criminal Law (Sexual Offences) Act 2006.*”.

SCHEDULE

ENACTMENTS REPEALED

Number and Year (1)	Short title (2)	Extent of Repeal (3)
No. 6 of 1935	Criminal Law Amendment Act 1935	Sections 1(2) and 2
No. 20 of 1993	Criminal Law (Sexual Offences) Act 1993	Sections 3 and 4