Changes to Legislation: as of 13 October 2026, there are changes to this Act which have not been implemented by the Revised Acts editorial team, see highlighted entries **here**. Note that some amendments may not be in force until commenced by a commencement order or other provision.



Number 10 *of* 1981

CRIMINAL LAW (RAPE) ACT 1981

REVISED

Updated to 31 August 2024

This Revised Act is an administrative consolidation of the *Criminal Law (Rape) Act 1981*. 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 the *Courts, Civil Law, Criminal Law and Superannuation (Miscellaneous Provisions) Act 2024* (30/2024), enacted 23 July 2024, and all statutory instruments up to and including the *Criminal Law (Sexual Offences and Human Trafficking) Act 2024 (Commencement) Order 2024* (S.I. No. 391 of 2024), made 31 July 2024, were considered in the preparation of this Revised Act.

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Number 10 *of* 1981

CRIMINAL LAW (RAPE) ACT 1981

REVISED

Updated to 31 August 2024

ARRANGEMENT OF SECTIONS

Section

1. Interpretation.
2. Meaning of "rape ".
3. Restrictions on evidence at trials for rape offences.
4. Proceedings under Part IA of the Criminal Procedure Act, 1967.
4A. Legal representation for complainants.
5. Trials of juveniles.
6. Exclusion of the public from hearings.
7. Anonymity of complainants.
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9. Trials by court-martial.
10. Punishment of indecent assault on female. *(Repealed)*
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12. Summary jurisdiction.
13. Short title and commencement.

ACTS REFERRED TO

Children Act, 1908	1908, c. 67
Children Act, 1941	1941, No. 12
Criminal Justice Act, 1951	1951, No. 2
Criminal Law Amendment Act, 1935	1935, No. 6
Criminal Procedure Act, 1967	1967, No. 12
Offences against the Person Act, 1861	1861, c. 100
Summary Jurisdiction over Children (Ireland) Act, 1884	1884, c. 19

Number 10 *of* 1981

CRIMINAL LAW (RAPE) ACT 1981

REVISED

Updated to 31 August 2024

AN ACT TO AMEND THE LAW RELATING TO RAPE AND INDECENT ASSAULT ON FEMALES. [6*th May*, 1981]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

Annotations

Editorial Notes:

E1 Provision for special treatment of child offences under Act made (1.05.2002) by *Children Act 2001* (24/2001), ss. 251, 253-256 and sch. 1, S.I. No. 151 of 2002.

Interpretation.

1.—F2**[**(1) In this Act—

F1**[**"Act of 2001" means the Children Act 2001;

"Act of 2017" means the Criminal Law (Sexual Offences) Act 2017;**]**

"aggravated sexual assault", "rape under section 4" and "sexual assault" have the meanings respectively assigned to them by the Criminal Law (Rape) (Amendment) Act, 1990;

F1**[**"applicable offence" means—

(*a*) a sexual assault offence, or

(*b*) an offence under section 3, 4, 5, 6, 7, 8, 21 or 22 of the Act of 2017;**]**

"complainant" means a person in relation to whom a sexual assault offence is alleged to have been committed;

"a rape offence" means any of the following, namely, rape, attempted rape, burglary with intent to commit rape, aiding, abetting, counselling and procuring rape, attempted rape or burglary with intent to commit rape, and incitement to rape and, other than in F3**[***section 2(2)***]** of this Act, rape under *section 4*, attempted rape under *section 4*, aiding, abetting, counselling and procuring rape under *section 4* or attempted rape under *section 4* and incitement to rape under *section 4*;

"a sexual assault offence" means a rape offence and any of the following, namely, aggravated sexual assault, attempted aggravated sexual assault, sexual assault, attempted sexual assault, aiding, abetting, counselling and procuring aggravated

sexual assault, attempted aggravated sexual assault, sexual assault or attempted sexual assault, incitement to aggravated sexual assault or sexual assault and conspiracy to commit any of the foregoing offences.**]**

(2) In this Act references to sexual intercourse shall be construed as references to carnal knowledge as defined in section 63 of the Offences against the Person Act, 1861, so far as it relates to natural intercourse (under which such intercourse is deemed complete on proof of penetration only).

(3) In this Act " man " and " woman " include respectively a male and a female person of any age;F4**[**...**]**.

Annotations

Amendments:

F1 Inserted (31.08.2024) by *Criminal Law (Sexual Offences and Human Trafficking) Act 2024* (28/2024), s. 6(a), S.I. No. 391 of 2024.

F2 Substituted (18.01.1991) by *Criminal Law (Rape) (Amendment) Act 1990* (32/1990), s. 12, commenced as per s. 22(3).

F3 Substituted (31.08.2024) by *Criminal Law (Sexual Offences and Human Trafficking) Act 2024* (28/2024), s. 6(b), S.I. No. 391 of 2024.

F4 Repealed (18.01.1991) by *Criminal Law (Rape) (Amendment) Act 1990* (32/1990), s. 21 and sch. ref. no. 5, commenced as per s. 22(3).

Meaning of "rape".

2. — (1) A man commits rape if—

(*a*) he has F5**[**...**]** sexual intercourse with a woman who at the time of the intercourse does not consent to it, and

(*b*) at that time he knows that she does not consent to the intercourse or he is reckless as to whether she does or does not consent to it,

and references to rape in this Act and any other enactment shall be construed accordingly.

(2) It is hereby declared that if at a trial for a rape offence the jury has to consider whether a man believed that a woman was consenting to sexual intercourse, the presence or absence of reasonable grounds for such a belief is a matter to which the jury is to have regard, in conjunction with any other relevant matters, in considering whether he so believed.

Annotations

Amendments:

F5 Repealed (18.01.1991) by *Criminal Law (Rape) (Amendment) Act 1990* (32/1990), s. 21 and sch. ref. no. 5, commenced as per s. 22(3).

Modifications (not altering text):

C1 Application of section extended (19.12.1996) by *Sexual Offences (Jurisdiction) Act 1996* (38/1996) s. 2 and schedule, commenced on enactment.

Sexual offences committed outside State.

2. —(1) Where a person, being a citizen of the State or being ordinarily resident in the State, does an act, in a place other than the State ("the place"), against or involving a child which—

(*a*) constitutes an offence under the law of the place, and

(*b*) if done within the State, would constitute an offence under, or referred to in, an enactment specified in the Schedule to this Act,

he or she shall be guilty of the second-mentioned offence.

(2) Where a person, being a citizen of the State or being ordinarily resident in the State, attempts to commit an offence which is an offence by virtue of *subsection (1)* of this section ("the principal offence"), he or she shall be guilty of an offence and shall be liable on conviction on indictment to a penalty not greater than the penalty to which he or she would have been liable if he or she had been convicted of the principal offence.

(3) Where a person aids, abets, counsels or procures, in the State, the commission of an offence, which is an offence by virtue of *subsection (1)* of this section, he or she shall be guilty of that offence.

(4) Where a person, being a citizen of the State or being ordinarily resident in the State, aids, abets, counsels or procures, outside the State, the commission of an offence, which is an offence by virtue of *subsection (1)* of this section, he or she shall be guilty of that offence.

(5) Where a person conspires with, or incites, inside the State, another person to commit an offence, which is an offence by virtue of *subsection (1)* of this section ("the principal offence"), he or she shall be guilty of an offence and shall be liable on conviction on indictment to a penalty not exceeding the penalty to which he or she would be liable if he or she were convicted of the principal offence.

(6) Where a person, being a citizen of the State or being ordinarily resident in the State, conspires with, or incites, outside the State, another person to commit an offence, which is an offence by virtue of *subsection (1)* of this section ("the principal offence"), he or she shall be guilty of an offence and shall be liable on conviction on indictment to a penalty not exceeding the penalty to which he or she would be liable if he or she were convicted of the principal offence.

(7) For the purposes of proceedings for an offence to which this section relates, a person shall be deemed to be ordinarily resident in the State if he or she has had his or her principal residence within the State for the period of 12 months immediately preceding the alleged commission of the said offence.

SCHEDULE

...

3. Section 2 of the Criminal Law (Rape) Act, 1981.

...

Restrictions on evidence at trials for rape offences.

3.—F6**[**(1) If at a trial any person is for the time being charged with a sexual assault offence to which he pleads not guilty, then, except with the leave of the judge, no evidence shall be adduced and no question shall be asked in cross-examination at the trial, by or on behalf of any accused person at the trial, about any sexual experience (other than that to which the charge relates) of a complainant with any person; and in relation to a sexual assault tried summarily pursuant to *section 12*—

(*a*) *subsection (2)* (*a*) shall have effect as if the words "in the absence of the jury" were omitted,

(*b*) *subsection (2)* (*b*) shall have effect as if for the references to the jury there were substituted references to the court, and

(*c*) this section (other than this paragraph) and *subsections (3)* and *(4)* of *section 7* shall have effect as if for the references to the judge there were substituted references to the court.**]**

(2) (*a*) The judge shall not give leave in pursuance of *subsection* (*1*) for any evidence or question except on an application made to him, in the absence of the jury, by or on behalf of an accused person.

(*b*) The judge shall give leave if, and only if, he is satisfied that it would be unfair to the accused person to refuse to allow the evidence to be adduced or the

question to be asked, that is to say, if he is satisfied that, on the assumption that if the evidence or question was not allowed the jury might reasonably be satisfied beyond reasonable doubt that the accused person is guilty, the effect of allowing the evidence or question might reasonably be that they would not be so satisfied.

(3) If, notwithstanding that the judge has given leave in accordance with this section for any evidence to be adduced or question to be asked in cross-examination, it appears to the judge that any question asked or proposed to be asked (whether in the course of so adducing evidence or of cross-examination) in reliance on the leave which he has given is not or may not be such as may properly be asked in accordance with that leave, he may direct that the question shall not be asked or, if asked, that it shall not be answered except in accordance with his leave given on a fresh application under this section.

(4) Nothing in this section authorises evidence to be adduced or a question to be asked which cannot be adduced or asked apart from this section.

Annotations

Amendments:

F6 Substituted (18.01.1991) by *Criminal Law (Rape) (Amendment) Act 1990* (32/1990), s. 13, commenced as per s. 22(3).

Modifications (not altering text):

C2 Section applied with modifications by *Criminal Law (Sexual Offences) (Amendment) Act 2007* (6/2007), s. 3(3), as substituted (31.08.2024) by *Criminal Law (Sexual Offences and Human Trafficking) Act 2024* (28/2024), s. 17, S.I. No. 391 of 2024.

Application of certain enactments.

3.— ...

[(3) Sections 3 and 4 of the Act of 1981 shall apply to an offence under section 6 of the Act of 1993 subject to the modification that references in those sections to "sexual assault offence" shall be construed as including references to an offence under section 6 of the Act of 1993.

(4) Sections 6, 7 and 8 of the Act of 1981 shall apply to an offence under section 6 of the Act of 1993 subject to the modification that references in those sections to "applicable offence" shall be construed as including references to an offence under section 6 of the Act of 1993.**]**

C3 Term "jury" construed (7.03.2007) by *Criminal Law (Sexual Offences) (Amendment) Act 2007* (6/2007), s. 3(2), commenced on enactment.

Application of certain enactments.

3. — ...

(2) References in section 3 of the Act of 1981 to jury shall, in the case of summary proceedings for an offence under section 6 (inserted by section 2), be construed as references to court.

...

Editorial Notes:

E2 Previous affecting provision: application of section extended (7.03.2007) by *Criminal Law (Sexual Offences) (Amendment) Act 2007* (6/2007), s. 3(3), commenced on enactment; subsection substituted (31.08.2024) as per C-note above.

E3 Previous affecting provision: application of section extended (2.06.2006) by *Criminal Law (Sexual Offences) Act 2006* (15/2006), s. 6(1), commenced on enactment; superseded (7.03.2007) as per E-note above.

F7**[**Proceedings under Part IA of the Criminal Procedure Act, 1967.

4.—(1) In a proceeding under Part IA of the Criminal Procedure Act, 1967, relating to—

(*a*) the dismissal of a charge of a sexual assault offence, or

(*b*) the taking of a person's evidence by way of deposition in the case of a sexual assault offence.

then, except with leave of the judge conducting the proceeding, evidence shall not be adduced and a question shall not be asked which, if the proceeding were a trial such as is mentioned in *section 3(1)*, could not be adduced or asked without leave in pursuance of that section.

(2) On an application for leave the judge shall—

(*a*) refuse leave unless he is satisfied that leave in respect of the evidence or question would be likely to be given at such a trial, or

(*b*) give leave if he is so satisfied.

(3) *Section 3(3)* shall apply to an application under *subsection (2)* of this section.**]**

Annotations

Amendments:

F7 Substituted (1.10.2001) by *Criminal Justice Act 1999* (10/1999), s. 15, S.I. No. 193 of 2001.

Modifications (not altering text):

C4 Section applied with modifications by *Criminal Law (Sexual Offences) (Amendment) Act 2007* (6/2007), s. 3(3), as substituted (31.08.2024) by *Criminal Law (Sexual Offences and Human Trafficking) Act 2024* (28/2024), s. 17, S.I. No. 391 of 2024.

Application of certain enactments.

3.— ...

[(3) Sections 3 and 4 of the Act of 1981 shall apply to an offence under section 6 of the Act of 1993 subject to the modification that references in those sections to "sexual assault offence" shall be construed as including references to an offence under section 6 of the Act of 1993.

(4) Sections 6, 7 and 8 of the Act of 1981 shall apply to an offence under section 6 of the Act of 1993 subject to the modification that references in those sections to "applicable offence" shall be construed as including references to an offence under section 6 of the Act of 1993.**]**

Editorial Notes:

E4 Previous affecting provision: application of section extended (7.03.2007) by *Criminal Law (Sexual Offences) (Amendment) Act 2007* (6/2007), s. 3(3), commenced on enactment; subsection substituted (31.08.2024) as per C-note above.

E5 Previous affecting provision: application of section extended (2.06.2006) by *Criminal Law (Sexual Offences) Act 2006* (15/2006), s. 6(1), commenced on enactment; superseded (7.03.2007) as per E-note above.

E6 Previous affecting provision: subs. (1) amended (18.01.1991) by *Criminal Law (Rape) (Amendment) Act 1990* (32/1990), s. 17(1), commenced as per s. 22(3); substituted (1.10.2001) as per F-note above.

F8**[**Legal representation for complainants.

4A.—(1) Where an application under *section 3* or *4* is made by or on behalf of an accused person who is for the time being charged with an offence to which this section applies, the complainant shall be entitled to be heard in relation to the application and, for this purpose, to be legally represented during the hearing of the application.

(2) Notice of intention to make an application under *section 3* or *4* shall be given to the prosecution by or on behalf of the accused person before, or as soon as practicable after, the commencement of the trial for the offence concerned or, as the case may be, the commencement of the proceeding concerned referred to in *section 4(1)*.

(3) The prosecution shall, as soon as practicable after the receipt by it of such a notice, notify the complainant of his or her entitlement to be heard in relation to the said application and to be legally represented, for that purpose, during the course of the application.

(4) The judge shall not hear the said application without first being satisfied that *subsections (2)* and *(3)* have been complied with.

(5) If the period between the complainant's being notified, under *subsection (3)*, of his or her entitlements under F9**[***subsection (1)***]** and the making of the said application is not, in the judge's opinion, such as to have afforded the complainant a reasonable opportunity to arrange legal representation of the kind referred to in F9**[***subsection (1)***]**, the judge shall postpone the hearing of the application (and, for this purpose, may adjourn the trial or proceeding concerned) for a period that the judge considers will afford the complainant such an opportunity.

F10**[**(5A) Where a judge has given leave in accordance with *section 3* or *4* for any evidence to be adduced or any question to be asked, the complainant shall be entitled to be heard in relation to the evidence or the question and, for this purpose, to be legally represented during the adducing of that evidence or the asking of that question.

(5B) The prosecution shall, as soon as practicable after a judge has given leave in accordance with *section 3* or *4* for any evidence to be adduced or any question to be asked, notify the complainant of his or her entitlement to be heard in relation to the evidence or the question and to be legally represented, for that purpose, during the adducing of that evidence or the asking of that question.

(5C) The judge shall not permit the said evidence to be adduced or the said question to be asked without first being satisfied that *subsection (5B)* has been complied with.

(5D) If the period between the complainant's being notified, under *subsection (5B)*, of his or her entitlements under *subsection (5A)* and the adducing of the said evidence or the asking of the said question is not, in the judge's opinion, such as to have afforded the complainant a reasonable opportunity to arrange legal representation of the kind referred to in *subsection (5A)*, the judge shall postpone the adducing of the evidence or the asking of the question (and, for this purpose, may adjourn the trial or proceeding concerned) for a period that the judge considers will afford the complainant such an opportunity.**]**

F9**[**(6) This section applies to—

(*a*) a sexual assault offence,

(*b*) an offence under section 6 of the Criminal Law (Sexual Offences) Act 1993, and

(*c*) an offence under the Criminal Law (Sexual Offences) Act 2006.**]]**

Annotations

Amendments:

F8 Inserted (27.09.2001) by *Sex Offenders Act 2001*, s. 34, S.I. No. 426 of 2001.

F9 Substituted (31.08.2024) by *Criminal Law (Sexual Offences and Human Trafficking) Act 2024* (28/2024), s. 7(a), (c), S.I. No. 391 of 2024.

F10 Inserted (31.08.2024) by *Criminal Law (Sexual Offences and Human Trafficking) Act 2024* (28/2024), s. 7(b), S.I. No. 391 of 2024.

Editorial Notes:

E7 Previous affecting provision: subs. (6) amended (7.03.2007) by *Criminal Law (Sexual Offences) (Amendment) Act 2007*, s. 3(1), commenced on enactment; subsection substituted (31.08.2024) as per F-note above.

E8 Previous affecting provision: subs. (6) amended (2.06.2006) by *Criminal Law (Sexual Offences) Act 2006* (15/2006), s. 6(2), commenced on enactment; subsection substituted (31.08.2024) as per F-note above.

Trials of juveniles.

5. — Where a person charged with a F11**[**sexual assault offence**]** is tried for that offence summarily in pursuance of F12**[**section 75 (which provides for the summary trial in certain cases of persons under the age of 18 years who are charged with indictable offences) of the F13**[**Act of 2001**]]**—

(*a*) *sections 2* (*2*) and *3* (*2*) (*b*) shall have effect as if for the references to the jury there were substituted references to the court,

(*b*) *section 3* (*2*) (*a*) shall have effect as if the words " in the absence of the jury " were omitted, and

(*c*) *section 3*, *subsections* (*3*) and (*4*) of *section 7* and *subsections* (*2*), (*4*) and (*5*) of *section 8* shall have effect as if for the references to the judge there were substituted references to the court.

Annotations

Amendments:

F11 Substituted (18.01.1991) by *Criminal Law (Rape) (Amendment) Act 1990* (32/1990), s. 17(1), commenced as per s. 22(3).

F12 Substituted (1.05.2002) by *Children Act 2001* (24/2001), s. 266, S.I. No. 151 of 2002.

F13 Substituted (31.08.2024) by *Criminal Law (Sexual Offences and Human Trafficking) Act 2024* (28/2024), s. 8, S.I. No. 391 of 2024.

Exclusion of the public.

F14**[6.**—(1) F15**[**Subject to *subsections (2)*, *(3)* and *(3A)*, in any proceedings for an applicable offence,**]** the judge, the justice or the court, as the case may be, shall exclude from the court during the hearing all persons except officers of the court, persons directly concerned in the proceedings, *bona fide* representatives of the Press and such other persons (if any) as the judge, the justice or the court, as the case may be, may in his or its discretion permit to remain.

(2) Subject to *subsection (3)*, during the hearing of an application under *section 3* (including that section as applied by *section 5*) or under *section 4 (2)*, the judge, the justice or the court, as the case may be, shall exclude from the court all persons except officers of the court and persons directly concerned in the proceedings.

F16**[**(3) *Subsections (1)* and *(2)* are without prejudice to the right of—

(*a*) a parent, relative or friend of the complainant or, where the accused is not of full age, of the accused, or

(*b*) a support worker chosen by the complainant,

to remain in court.**]**

F17**[**(3A) This section shall not apply to the hearing of proceedings to which section 94 of the Act of 2001 applies.**]**

(4) F18**[**...**]]**

F19**[**(5) In this section, "support worker" means a volunteer of, or an individual employed under a contract of service or under a contract for services by, an organisation which provides support to victims of crime.**]**

Annotations

Amendments:

F14 Substituted and inserted (18.01.1991) by *Criminal Law (Rape) (Amendment) Act 1990* (32/1990), s. 11, commenced as per s. 22(3).

F15 Substituted (31.08.2024) by *Criminal Law (Sexual Offences and Human Trafficking) Act 2024* (28/2024), s. 9(a), S.I. No. 391 of 2024.

F16 Substituted (27.11.2017) by *Criminal Justice (Victims of Crime) Act 2017* (28/2017), s. 29(a), S.I. No. 530 of 2017.

F17 Inserted (31.08.2024) by *Criminal Law (Sexual Offences and Human Trafficking) Act 2024* (28/2024), s. 9(b), S.I. No. 391 of 2024.

F18 Deleted (31.08.2024) by *Criminal Law (Sexual Offences and Human Trafficking) Act 2024* (28/2024), s. 9(c), S.I. No. 391 of 2024.

F19 Inserted (27.11.2017) by *Criminal Justice (Victims of Crime) Act 2017* (28/2017), s. 29(b), S.I. No. 530 of 2017.

Modifications (not altering text):

C5 Section applied with modifications by *Criminal Law (Sexual Offences) (Amendment) Act 2007* (6/2007), s. 3(3), as substituted (31.08.2024) by *Criminal Law (Sexual Offences and Human Trafficking) Act 2024* (28/2024), s. 17, S.I. No. 391 of 2024.

Application of certain enactments.

3.— ...

[(3) Sections 3 and 4 of the Act of 1981 shall apply to an offence under section 6 of the Act of 1993 subject to the modification that references in those sections to "sexual assault offence" shall be construed as including references to an offence under section 6 of the Act of 1993.

(4) Sections 6, 7 and 8 of the Act of 1981 shall apply to an offence under section 6 of the Act of 1993 subject to the modification that references in those sections to "applicable offence" shall be construed as including references to an offence under section 6 of the Act of 1993.**]**

Editorial Notes:

E9 Previous affecting provision: application of section extended (7.03.2007) by *Criminal Law (Sexual Offences) (Amendment) Act 2007* (6/2007), s. 3(3), commenced on enactment; substituted (31.08.2024) as per C-note above.

E10 Previous affecting provision: application of section extended (2.06.2006) by *Criminal Law (Sexual Offences) Act 2006* (15/2006), s. 6(1), commenced on enactment; substituted (7.03.2007) as per E-note above.

Anonymity of complainants.

7. — (1) Subject to *subsection* (*8*) (*a*), after a person is charged with F20**[**an applicable offence**]** no matter likely to lead members of the public to identify a F21**[**person**]** as the complainant in relation to that charge shall be F20**[**published or broadcast**]** except as authorised by a direction given in pursuance of this section.

(2) If, at any stage before the commencement of a trial of a person for F20**[**an applicable offence**]**, he or another person against whom the complainant may be expected to give evidence at the trial applies to a judge of the High Court or Circuit Court for a direction in pursuance of this subsection and satisfies the judge—

(*a*) that the direction is required for the purpose of inducing persons to come forward who are likely to be needed as witnesses at the trial, and

(*b*) that the conduct of the applicant's defence at the trial is likely to be adversely affected if the direction is not given,

the judge shall direct that *subsection* (*1*) shall not, by virtue of the charge alleging the offence aforesaid, apply to such matter relating to the complainant as is specified in the direction.

(3) If at a trial of a person for F20**[**an applicable offence**]** he or another person who is also charged at the trial applies to the judge for a direction in pursuance of this subsection and satisfies the judge—

(*a*) that the direction is required for the purpose of inducing persons to come forward who are likely to be needed as witnesses at the trial,

(*b*) that the conduct of the applicant's defence at the trial is likely to be adversely affected if the direction is not given, and

(*c*) that there was good reason for his not having made an application under *subsection* (*2*) before the commencement of the trial,

the judge shall direct that *subsection* (*1*) shall not, by virtue of the charge alleging the offence aforesaid, apply to such matter relating to the complainant as is specified in the direction.

(4) If at a trial for F20**[**an applicable offence**]** the judge is satisfied that the effect of *subsection* (*1*) is to impose a substantial and unreasonable restriction on the reporting of proceedings at the trial and that it is in the public interest to remove or relax the restriction, he shall direct that that subsection shall not apply to such matter relating to the complainant as is specified in the direction; but a direction shall not be given in pursuance of this subsection by reason only of F21**[**the outcome of**]** the trial.

(5) If a person who has been convicted of an offence and given notice of appeal against the conviction, or, on conviction on indictment, notice of an application for leave so to appeal, applies to the appellate court for a direction in pursuance of this subsection and satisfies the court—

(*a*) that the direction is required for the purpose of obtaining evidence in support of the appeal, and

(*b*) that the applicant is likely to suffer injustice if the direction is not given,

the court shall direct that *subsection* (*1*) shall not apply to such matter relating to a specified complainant and F20**[**applicable offence**]** as is specified in the direction.

(6) If any matter is published or broadcast in contravention of *subsection* (*1*), the following persons, namely—

(*a*) in the case of a publication in a newspaper or periodical, any proprietor, any editor and any publisher of the newspaper or periodical,

(*b*) in the case of any other publication, the person who publishes it, and

(*c*) in the case of a broadcast, any body corporate which transmits or provides the programme in which the broadcast is made and any person having functions in relation to the programme corresponding to those of an editor of a newspaper,

shall be guilty of an offence.

F20**[**(7) In this section—

"broadcast" has the same meaning as it has in section 2 of the Broadcasting Act 2009;

"publish" means publish, other than by way of broadcast or in an indictment or other document prepared for use in particular legal proceedings, to the public or a portion of the public.**]**

(8) Nothing in this section—

(*a*) prohibits the publication or broadcasting of matter consisting only of a report of legal proceedings other than proceedings at, or intended to lead to, or on an appeal arising out of, a trial at which the accused is charged with F20**[**an applicable offence**]**, or

(*b*) affects any prohibition or restriction imposed by virtue of any other enactment upon a publication or broadcast.

(9) A direction in pursuance of this section does not affect the operation of *subsection* (*1*) at any time before the direction is given.

(10) If, after the commencement of a trial of a person for F20**[**an applicable offence**]**, a new trial of the person for that offence is ordered, the commencement of any previous trial of that person for that offence shall be disregarded for the purposes of *subsections* (*2*) and (*3*).

Annotations

Amendments:

F20 Substituted (31.08.2024) by *Criminal Law (Sexual Offences and Human Trafficking) Act 2024* (28/2024), s. 10(a)-(d), S.I. No. 391 of 2024.

F21 Substituted (18.01.1991) by *Criminal Law (Rape) (Amendment) Act 1990* (32/1990), s. 17(2)(a), (b), commenced as per s. 22(3).

Modifications (not altering text):

C6 Section applied with modifications by *Criminal Law (Sexual Offences) (Amendment) Act 2007* (6/2007), s. 3(3), as substituted (31.08.2024) by *Criminal Law (Sexual Offences and Human Trafficking) Act 2024* (28/2024), s. 17, S.I. No. 391 of 2024.

Application of certain enactments.

3.— ...

[(3) Sections 3 and 4 of the Act of 1981 shall apply to an offence under section 6 of the Act of 1993 subject to the modification that references in those sections to "sexual assault offence" shall be construed as including references to an offence under section 6 of the Act of 1993.

(4) Sections 6, 7 and 8 of the Act of 1981 shall apply to an offence under section 6 of the Act of 1993 subject to the modification that references in those sections to "applicable offence" shall be construed as including references to an offence under section 6 of the Act of 1993.**]**

C7 Application of section extended with modifications (2.09.2017) by *Criminal Law (Sexual Offences) Act 2017* (2/2017), s. 30(4), S.I. No. 434 of 2019.

Anonymity of person charged with offence under Act of 1908 and person to whom offence relates

30. ...

(4) Notwithstanding the provisions of subsection (1), where a person is charged with both an offence under the Act of 1908 and a sexual assault offence and the charge relating to an offence under the Act of 1908 is not proceeded with or the person is acquitted of the charge under the Act of 1908 and no appeal is taken under section 23 of the Criminal Procedure Act 2010, the

provisions of sections 7 and 8 of the Act of 1981 shall apply as if the charge under the Act of 1908 had not been brought.

...

Editorial Notes:

E11 Previous affecting provision: application of section extended (7.03.2007) by *Criminal Law (Sexual Offences) (Amendment) Act 2007* (6/2007), s. 3(3), commenced on enactment; substituted (31.08.2024) as per C-note above.

E12 Previous affecting provision: application of section extended (2.06.2006) by *Criminal Law (Sexual Offences) Act 2006* (15/2006), s. 6(1), commenced on enactment; substituted (7.03.2007) as per E-note above.

E13 Previous affecting provision: subss. (1)-(5), (8)(a) and (10) amended (18.01.1991) by *Criminal Law (Rape) (Amendment) Act 1990* (32/1990), s. 17(2)(c), commenced as per s. 22(3); substituted (31.08.2024) as per F-note above.

Anonymity of accused.

8. — (1) After a person is charged with F22**[**an applicable offence**]** no matter likely to lead members of the public to identify him as the person against whom the charge is made shall be F22**[**published or broadcast**]** except—

(*a*) as authorised by a direction given in pursuance of this section or by virtue of *section 7* (*8*) (*a*) as applied by *subsection* (*6*) of this section, or

(*b*) after he has been convicted of the offence.

F23**[**(2) If a person charged with F22**[**an applicable offence**]** applies in that behalf to a judge of the High Court before the commencement of the trial or to the judge at the trial, the judge shall direct that *subsection (1)* shall not apply to the person in relation to the charge:

Provided that, if it appears to the judge that, if the direction were given, the publication of any matter in pursuance of the direction might enable members of the public to identify a person as the complainant in relation to the charge, the judge shall not give the direction unless he is satisfied that a direction could properly be given in relation to that person in pursuance of *section 7*.**]**

(3) If, at any stage before the commencement of a trial of a person for F22**[**an applicable offence**]**, another person who is to be charged with F22**[**an applicable offence**]** at the trial applies to a judge of the High Court F24**[**...**]** for a direction in pursuance of this subsection and satisfies the judge—

(*a*) that the direction is required for the purpose of inducing persons to come forward who are likely to be needed as witnesses at the trial, and

(*b*) that the conduct of the applicant's defence at the trial is likely to be adversely affected if the direction is not given,

the judge shall direct that *subsection* (*1*) shall not, by virtue of the charge alleging the offence aforesaid, apply to such matter relating to the first-mentioned person as is specified in the direction.

(4) If at a trial of a person for F22**[**an applicable offence**]** another person who is also charged at the trial applies to the judge for a direction in pursuance of this subsection and satisfies the judge—

(*a*) that the direction is required for the purpose of inducing persons to come forward who are likely to be needed as witnesses at the trial,

(*b*) that the conduct of the applicant's defence is likely to be adversely affected if the direction is not given, and

(*c*) that there was good reason for his not having made an application under *subsection* (*3*) before the commencement of the trial,

the judge shall direct that *subsection* (*1*) shall not, by virtue of the charge alleging the offence aforesaid, apply to such matter relating to the first-mentioned person as is specified in the direction.

(5) If at a trial at which a person is charged with F22**[**an applicable offence**]** the judge is satisfied that the effect of *subsection* (*1*) is to impose a substantial and unreasonable restriction on the reporting of proceedings at the trial and that it is in the public interest to remove or relax the restriction in respect of that person, the judge shall direct that *subsection* (*1*) shall not, by virtue of the charge alleging the offence aforesaid, apply to such matter relating to that person as is specified in the direction.

(6) *Subsections* (*6*) to (*9*) of *section 7* shall have effect for the purposes of this section as if for references to that section there were substituted references to this section.

(7) If, after the commencement of a trial of a person for F22**[**an applicable offence**]**, a new trial of the person for that offence is ordered, the commencement of any previous trial of that person for that offence shall be disregarded for the purposes of *subsections* (*2*), (*3*) and (*4*).

F25**[**(8) If, at any time after a person is charged with F22**[**an applicable offence**]**, the Director of Public Prosecutions applies in that behalf to a judge of the High Court, the judge, if he is satisfied that it is in the public interest to do so, shall direct that *subsection (1)* shall not apply to such matter relating to the person charged with the offence as is specified in the direction.**]**

Annotations

Amendments:

F22 Substituted (31.08.2024) by *Criminal Law (Sexual Offences and Human Trafficking) Act 2024* (28/2024), s. 11(a), (b), S.I. No. 391 of 2024.

F23 Substituted (18.01.1991) by *Criminal Law (Rape) (Amendment) Act 1990* (32/1990), s. 14(a), commenced as per s. 22(3).

F24 Repealed (18.01.1991) by *Criminal Law (Rape) (Amendment) Act 1990* (32/1990), s. 21 and sch. ref. no. 5, commenced as per s. 22(3).

F25 Inserted (18.01.1991) by *Criminal Law (Rape) (Amendment) Act 1990* (32/1990), s. 14(b), commenced as per s. 22(3).

Modifications (not altering text):

C8 Section applied with modifications by *Criminal Law (Sexual Offences) (Amendment) Act 2007* (6/2007), s. 3(3), as substituted (31.08.2024) by *Criminal Law (Sexual Offences and Human Trafficking) Act 2024* (28/2024), s. 17, S.I. No. 391 of 2024.

Application of certain enactments.

3.— ...

[(3) Sections 3 and 4 of the Act of 1981 shall apply to an offence under section 6 of the Act of 1993 subject to the modification that references in those sections to "sexual assault offence" shall be construed as including references to an offence under section 6 of the Act of 1993.

(4) Sections 6, 7 and 8 of the Act of 1981 shall apply to an offence under section 6 of the Act of 1993 subject to the modification that references in those sections to "applicable offence" shall be construed as including references to an offence under section 6 of the Act of 1993.**]**

C9 Application of section extended with modifications (2.09.2017) by *Criminal Law (Sexual Offences) Act 2017* (2/2017), s. 30(4), S.I. No. 434 of 2019.

Anonymity of person charged with offence under Act of 1908 and person to whom offence relates

30. ...

(4) Notwithstanding the provisions of subsection (1), where a person is charged with both an offence under the Act of 1908 and a sexual assault offence and the charge relating to an offence under the Act of 1908 is not proceeded with or the person is acquitted of the charge under the Act of 1908 and no appeal is taken under section 23 of the Criminal Procedure Act 2010 , the provisions of sections 7 and 8 of the Act of 1981 shall apply as if the charge under the Act of 1908 had not been brought.

Editorial Notes:

E14 Previous affecting provision: application of section extended (7.03.2007) by *Criminal Law (Sexual Offences) (Amendment) Act 2007* (6/2007), s. 3(3), commenced on enactment; substituted (31.08.2024) as per C-note above.

E15 Previous affecting provision: application of section extended (2.06.2006) by *Criminal Law (Sexual Offences) Act 2006* (15/2006), s. 6(1), commenced on enactment; substituted (7.03.2007) as per E-note above.

Trials by court-martial.

9. — F26**[**(1) This Act applies, with the necessary modifications, to the trial by court-martial of an applicable offence.**]**

(2) In particular—

F26**[**(*a*) for the references to a judge in *section 3*, *7* or *8* there shall be substituted references to a military judge, and

(*aa*) in *section 8(8)* for the reference to the Director of Public Prosecutions there shall be substituted a reference to the Director.**]**

(*b*) F27**[**...**]**

F28**[**(3) In this section, "court-martial", "Director" (other than in the reference to the Director of Public Prosecutions) and "military judge" have the same meanings as they have in the Defence Act 1954.**]**

Annotations

Amendments:

F26 Substituted (31.08.2024) by *Criminal Law (Sexual Offences and Human Trafficking) Act 2024* (28/2024), s. 12(a), (b)(i), (ii), S.I. No. 391 of 2024.

F27 Deleted (31.08.2024) by *Criminal Law (Sexual Offences and Human Trafficking) Act 2024* (28/2024), s. 12(b)(iii), S.I. No. 391 of 2024.

F28 Inserted (31.08.2024) by *Criminal Law (Sexual Offences and Human Trafficking) Act 2024* (28/2024), s. 12(c), S.I. No. 391 of 2024.

Editorial Notes:

E16 Previous affecting provision: para. (aa) inserted (18.01.1991) by *Criminal Law (Rape) (Amendment) Act 1990* (32/1990), s. 15, commenced as per s. 22(3); substituted (31.08.2024) as per F-note above.

E17 Previous affecting provision: subs. (1) amended (18.01.1991) by *Criminal Law (Rape) (Amendment) Act 1990* (32/1990), s. 17(1), commenced as per s. 22(3); substituted (31.08.2024) as per F-note above.

Punishment of indecent assault on female.

10. — F29**[**...**]**

Annotations

Amendments:

F29 Repealed (18.01.1991) by *Criminal Law (Rape) (Amendment) Act 1990* (32/1990), s. 21 and sch. ref. no. 5, commenced as per s. 22(3).

Penalty for publication of unauthorised matter.

11. — (1) A person guilty of an offence under *section 7* (*6*) (including an offence under that section as applied by *section 8* (*6*)) shall be liable on conviction on indictment to a fine not exceeding £10,000 or, at the discretion of the court, to imprisonment for a term not exceeding 3 years or to both such fine and such imprisonment.

(2) (*a*) Where an offence to which *subsection* (*1*) relates and which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and be liable to be proceeded against and punished accordingly.

(*b*) Where the affairs of a body corporate are managed by its members, *paragraph* (*a*) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(3) Where a person is charged with an offence to which *subsection* (*1*) relates it shall be a defence to prove that at the time of the alleged offence he was not aware, and neither suspected nor had reason to suspect, that the publication or broadcast in question was of such matter as is mentioned in *section 7* (*1*) or *section 8* (*1*), as the case may be.

Annotations

Editorial Notes:

E18 A fine of £10,000 converts to €12,697.38.

Summary jurisdiction.

12. — (1) A justice of the District Court shall have jurisdiction to try summarily F30**[**a sexual assault or an offence to which *section 11* relates**]** if—

(i) the justice is of opinion that the facts proved or alleged against a defendant charged with such an offence constitute a minor offence fit to be tried summarily,

(ii) the Director of Public Prosecutions consents, and

(iii) the defendant (on being informed by the justice of his right to be tried by a jury) does not object to being tried summarily,

and, upon conviction under this subsection, the said defendant shall be liable to a fine not exceeding F30**[**£1,000**]** or, at the discretion of the court, to imprisonment for a term not exceeding 12 months or to both such fine and such imprisonment.

(2) Section 13 of the Criminal Procedure Act, 1967 (which provides for the procedure where a person pleads guilty in the District Court to an indictable offence) shall apply

in relation to an offence mentioned in *subsection* (*1*) as if, in lieu of the penalties specified in subsection (3) of the said section 13, there were specified therein the penalties provided for by *subsection* (*1*) of this section and the reference in subsection (2) (*a*) of the said section 13 to the penalties provided for in subsection (3) of that section shall be construed accordingly.

(3) F31**[**...**]**

Annotations

Amendments:

F30 Substituted (18.01.1991) by *Criminal Law (Rape) (Amendment) Act 1990* (32/1990), s. 16, commenced as per s. 22(3).

F31 Repealed (18.01.1991) by *Criminal Law (Rape) (Amendment) Act 1990* (32/1990), s. 21 and sch. ref. no. 5, commenced as per s. 22(3).

Editorial Notes:

E19 A fine of £1,000 translates into a class C fine of up to €2,500 as provided (4.10.2011) by *Fines Act 2010* (8./2010), ss. 3, 6(2) and table ref. no. 2, S.I. No. 662 of 2010.

Short title and commencement.

13. — (1) This Act may be cited as the Criminal Law (Rape) Act, 1981.

(2) This Act shall come into operation one month after the date of its passing.

(3) *Section 3* (including that section as applied by *sections 5* and *9*) and *section 4* shall not have effect in relation to a trial or preliminary examination which begins before the commencement of this Act and *sections 7* and *8* shall not have effect in relation to a charge alleging a rape offence which is made before such commencement.

(4) *Section 10* and, in so far as it relates to an offence under *section 10*, *section 12* shall not have effect in relation to an offence committed before the commencement of this Act.

Number 10 *of* 1981

CRIMINAL LAW (RAPE) ACT 1981

REVISED

Updated to 31 August 2024

About this Revised Act

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

Related legislation

Criminal Law (Rape) Acts 1981 and 1990: this Act is one of a group of Acts included in this collective citation, to be construed together as one (*Criminal Law (Rape) (Amendment) Act 1990* (32/1990), s. 22(2)). The Acts in this group are:

- *Criminal Law (Rape) Act 1981* (10/1981)
- *Criminal Law (Rape) (Amendment) Act 1990* (32/1990)

Annotations

This Revised Act is annotated and includes textual and non-textual amendments, statutory instruments made pursuant to the Act and previous affecting provisions.

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 1972, 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 and Human Trafficking) Act 2024* (28/2024)
- *Criminal Justice (Victims of Crime) Act 2017* (28/2017)
- *Criminal Law (Sexual Offences) Act 2017* (2/2017)
- *Criminal Law (Sexual Offences) (Amendment) Act 2007* (6/2007)

- *Criminal Law (Sexual Offences) Act 2006* (15/2006)
- *Children Act 2001* (24/2001)
- *Sex Offenders Act 2001* (18/2001)
- *Criminal Justice Act 1999* (10/1999)
- *Sexual Offences (Jurisdiction) Act 1996* (38/1996)
- *Criminal Law (Rape) (Amendment) Act 1990* (32/1990)
- *Criminal Procedure Act 1967* (12/1967)

All Acts up to and including *Courts, Civil Law, Criminal Law and Superannuation (Miscellaneous Provisions) Act 2024* (30/2024), enacted 23 July 2024, 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 and Human Trafficking) Act 2024 (Commencement) Order 2024* (S.I. No. 391 of 2024), made 31 July 2024, were considered in the preparation of this revision.