



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 not annotated and only shows textual amendments. An annotated version of this revision is also available which shows textual and non-textual amendments and their sources. It also shows editorial notes including statutory instruments made pursuant to the Act and previous affecting provisions.

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Where other legislation is amended by this Act, those amendments may have been superseded by other amendments in other legislation, or the amended legislation may have been repealed or revoked.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. A list of legislative changes to any Act, and to statutory instruments from 1996, may be found in the linked from the page of the Act or statutory instrument at www.irishstatutebook.ie.



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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Enactments Repealed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:

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;

[“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;]

[“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.

Defilement of
child under 15
years of age

[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.]

Defilement of
child under 17
years of age

[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.]

[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.]

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.

[(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.

Amendment of certain enactments.

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.*”.

Repeals. **8.**— The enactments specified in the *Schedule* are repealed to the extent specified in *column (3)* thereof.

Short title. **9.**— This Act may be cited as 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