



Northern Ireland
Assembly

Justice (Sexual Offences and Trafficking Victims) Bill
Annotated Marshalled List of Amendments
Further Consideration Stage
Monday 7 March 2022

Amendments tabled up to 9.30am Wednesday, 2 March 2022 and selected for debate

Amendment 1 [*Made without division*]

Clause 1, Page 1, Line 13

Leave out ‘for a purpose mentioned in paragraph (3),’

Chair, Committee for Justice

Amendment 2 [*Made without division*]

Clause 1, Page 1

Leave out from line 19 to end of line 2 on page 2 and insert -
‘(c) either condition 1 or condition 2 is met.’

Chair, Committee for Justice

Amendment 3 [Made without division]

Clause 1, Page 2, Line 2

At end insert -

‘(1A) 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.

(1B) 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’

Chair, Committee for Justice

Amendment 4 [Made without division]

Clause 1, Page 2

Leave out lines 11 to 15 and insert -

‘(c) either condition 3 or condition 4 is met.’

Chair, Committee for Justice

Amendment 5 [Made without division]

Clause 1, Page 2

Leave out lines 16 to 18 and insert -

‘(3) 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.

(3A) 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.
- (3B) Paragraph (3C) 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.
- (3C) Where this paragraph applies, then for the purposes of paragraph (1B)(a) or paragraph (3A)(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’

Chair, Committee for Justice

Amendment 6 [Made without division]

Clause 1, Page 2, Line 29

Leave out ‘for a purpose mentioned in paragraph (3),’

Chair, Committee for Justice

Amendment 7 [Made without division]

Clause 1, Page 2

Leave out lines 34 to 36 and insert -

‘(c) either condition 1 or condition 2 is met.’

Chair, Committee for Justice

Amendment 8 [Made without division]

Clause 1, Page 2, Line 36

At end insert -

‘(1A) 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.

(1B) 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.’

Chair, Committee for Justice

Amendment 9 [Made without division]

Clause 1, Page 3

Leave out lines 4 to 8 and insert -

‘(c) either condition 3 or condition 4 is met.’

Chair, Committee for Justice

Amendment 10 [Made without division]

Clause 1, Page 3

Leave out lines 9 to 11 and insert -

‘(3) 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.
- (3A) 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.
- (3B) Paragraph (3C) 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.
- (3C) Where this paragraph applies, then for the purposes of paragraph (1B)(a) or paragraph (3A)(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.’

Chair, Committee for Justice

Amendment 11 [Made without division]

Clause 1, Page 3, Line 22

Leave out subsection (4)

Chair, Committee for Justice

Amendment 12 [Made without division]

New Clause

After clause 1 insert -

‘Sending etc an unwanted sexual image

1A.—(1) After Article 72 of the Sexual Offences (Northern Ireland) Order 2008 insert—

“Sending etc an unwanted sexual image

72A.— (1) A person (A) commits an offence if—

- (a) A intentionally sends or gives to another person (B) a sexual image,
 - (b) A does so—
 - (i) without B’s consent, and
 - (ii) without reasonably believing that B consents, and
 - (c) either condition 1 or condition 2 is met.
- (2) Condition 1 is that A intends that B will look at the image and that doing so will cause humiliation, distress or alarm to B.
- (3) Condition 2 is that—
- (a) A’s purpose in sending or giving the image is to obtain sexual gratification, and
 - (b) A is reckless as to whether B is humiliated, distress or alarmed.
- (4) For the purposes of this Article, a sexual image is a photograph or film of—
- (a) any person engaging in a sexual activity, or
 - (b) any person’s genitals.
- (5) In paragraph (4)—
- “photograph” includes the negative as well as the positive version;
- “film” means a moving image.
- (6) References to a photograph or film also include—
- (a) an image, whether made by computer graphics or in any other way, which appears to be a photograph or film,
 - (b) a copy of a photograph, film or image within sub-paragraph (a), and
 - (c) data stored by any means which is capable of conversion into a photograph, film or image within sub-paragraph (a).
- (7) References to sending or giving such a photograph or film to another person include, in particular—
- (a) sending it to another person by any means, electronically or otherwise,
 - (b) showing it to another person, and

- (c) placing it for a particular person to find.
- (8) 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.”.’

Chair, Committee for Justice

Amendment 13 [Made without division]

New Clause

After clause 1 insert -

‘Amendments consequential on sections 1 and 1A

1B.—(1) Schedule 1 contains amendments consequential on the insertions made by sections 1(2) and 1A’

Chair, Committee for Justice

Amendment 14 [Not moved]

Clause 3, Page 6, Line 17

At end insert -

‘(1A) For the purposes of Articles 23 to 26, a person (A) is in a position of trust in relation to another person (B) if A provides tuition to B in an individual or group setting.’

Chair, Committee for Justice

Amendment 15 [Not moved]

Clause 3, Page 6, Line 17

At end insert -

‘(1B) For the purposes of Articles 23 to 26, a person (A) is in a position of trust in relation to another person (B) if A provides leadership or instruction in youth activities in which B participates in an individual or group setting.’

Chair, Committee for Justice

Amendment 16 [Not called]

Clause 3, Page 6, Line 25

At end insert -

- ‘(2A) In paragraph (1A), “tuition” includes any tuition provided for the purpose of—
 - (a) achieving a level of proficiency for which practice is required,
 - (b) completion of a recognised examination, or

(c) competition or display.

(2B) In paragraph (1B), “youth activities” includes any activity which is organised for the purpose of bringing together young people as participants in an age-restricted context.’

Chair, Committee for Justice

Amendment 17 [Not called]

Clause 3, Page 6, Line 26

Leave out ‘Paragraph (1) does’ and insert ‘Paragraphs (1) to (1B) do’

Chair, Committee for Justice

Amendment 18 [Not called]

Clause 3, Page 6, Line 30

At end insert -

‘(b) amend paragraphs (1A) and (2A) so as to add or remove an activity in which a person may be provided with tuition (however construed).

(c) amend paragraphs (1B) and (2B) so as to add or remove an activity in which a person may be provided with leadership or instruction in an individual or group setting offered for the benefit of young people in an age-restricted context’

Chair, Committee for Justice

Amendment 19 [Negatived without division]

Clause 3, Page 6, Line 39

At end insert -

‘(6) The Department of Justice must, within the period of 2 years beginning with the day of the coming into operation of this section—

(a) carry out an assessment of the effectiveness of Article 29A(1) to (3) of the Sexual Offences (Northern Ireland) Order 2008 since that day, and

(b) determine whether the power in Article 29A(4) of that Order should be exercised in light of the assessment.’

Minister of Justice

Amendment 20 [Made without division]

Clause 3, Page 6, Line 39

At end insert -

‘(6) The Department must annually review Article 29A(1) to (2B) of the Sexual Offences (Northern Ireland) Order 2008 so as to inform the Department on whether the power in Article 29A(4) of that Order should be exercised.’

Chair, Committee for Justice

Amendment 21 [Made without division]

Clause 11, Page 14, Line 15

At end insert -

- ‘(aa) an offence under section 2 of the Attempted Rape, etc., Act (Northern Ireland) 1960 (assault with intent to commit rape);
- (ab) an offence under section 3 of the Sexual Offences (Amendment) Act 2000 (abuse of position of trust);’

Minister of Justice

Amendment 22 [Made without division]

Clause 11, Page 14, Line 32

Leave out from ‘under’ to ‘listed’ on line 33 and insert ‘specified’

Minister of Justice

Amendment 23 [Made without division]

Clause 18, Page 23, Line 39

Leave out from ‘other’ to end of line 40 and insert ‘associated matters as the Department considers appropriate as to criminal law or procedure.’

Minister of Justice

Amendment 24 [Made without division]

Clause 18, Page 23, Line 41

Leave out subsections (2) and (3)

Minister of Justice

Amendment 25 [Made without division]

Clause 18, Page 24, Line 9

Leave out ‘Part’ and insert ‘section’

Minister of Justice

Amendment 26 [Made without division]

Clause 18, Page 24, Line 9

At end insert -

‘(4A) Guidance under this section must include such information in suitable form for use in training for staff or personnel working within the criminal justice sector as the Department of Justice considers appropriate.’

Minister of Justice

Amendment 27 [Made without division]

Clause 18, Page 24, Line 11

Leave out ‘Part’ and insert ‘section’

Minister of Justice

Amendment 28 [Made without division]

Clause 18, Page 24, Line 12

Leave out ‘Part’ and insert ‘section’

Minister of Justice

Amendment 29 [Made without division]

Clause 18, Page 24, Line 13

At end insert -

‘(5A) A review of guidance under this section must take account of such views on the operation of this Part obtained by the Department of Justice from bodies or agencies having functions within the criminal justice sector as the Department considers appropriate.’

Minister of Justice

Amendment 30 [Made without division]

Clause 18, Page 24, Line 16

Leave out ‘Part’ and insert ‘section’

Minister of Justice

Amendment 31 [Made without division]

Clause 19, Page 25, Line 3

Leave out ‘(or more based on need)’ and insert ‘, or such longer period as the Department thinks necessary’

Minister of Justice

Amendment 32 [Made without division]

Clause 19, Page 25, Line 4

Leave out from ‘for’ to end of line 5 and insert “after “period” insert “of up to 12 months, or longer than 12 months,”’

Minister of Justice

Amendment 33 [Not called]

Clause 19, Page 25, Line 5

At end insert -

‘(ca) after subsection (9), insert—

“(9A) The Department may, in exceptional circumstances, extend assistance and support (set out in subsection (9)) beyond 12 months for such period as the Department thinks necessary.”’

Mr Mervyn Storey

Mr Peter Weir

Mr Robin Newton

Amendment 34 [Made without division]

Clause 19, Page 25, Line 12

Leave out subsection (4) and insert new clause -

‘Defence for slavery and trafficking victims

(19A) In section 22 (defence for slavery and trafficking victims in relation to certain offences) of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015—

- (a) in subsection (9)(a)(i), after “of a” insert “Class A,”;
- (b) in subsection (9)(a)(ii), after “of a” insert “Class A or”.

Minister of Justice

Amendment 35 [Made without division]

Clause 21, Page 25, Line 22

Leave out from ‘, within’ to ‘Assent’ in line 23

Minister of Justice

Amendment 36 [Made without division]

Clause 21, Page 25, Line 25

Leave out ‘from slavery or trafficking’ and insert ‘who is, or who appears to be at risk of becoming, a relevant victim’

Minister of Justice

Amendment 37 [Made without division]

Clause 21, Page 25, Line 27

Leave out ‘from slavery or trafficking’ and insert ‘who is, or who appears to be at risk of becoming, a relevant victim’

Minister of Justice

Amendment 38 [Made without division]

Clause 21, Page 25, Line 27

At end insert -

‘(1A) A reference in this section to a relevant victim is to be construed in the same way as a reference to a qualifying victim in section 18 of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015.’

Minister of Justice

Amendment 39 [Made without division]

Clause 21, Page 25, Line 29

Leave out ‘are not limited to’ and insert ‘include (but are not limited to)’

Minister of Justice

Amendment 40 [Made without division]

Clause 21, Page 25, Line 29

At end insert -

‘(2A) A draft of regulations under this section must be laid before the Assembly no later than the end of the period of 2 years beginning with the day on which this section comes into operation.’

Minister of Justice

Amendment 41 [Made without division]

Clause 21, Page 25, Line 30

Leave out ‘The regulations may not be made unless a draft’ and insert ‘Regulations under this section may not be made unless a draft of them’

Minister of Justice

Amendment 42 [Made without division]

Schedule 1, Page 30, Line 8

After ‘71B’ insert ‘, 72A’

Chair, Committee for Justice

Amendment 43 [Made without division]

Schedule 1, Page 30, Line 11

After ‘71B’ insert ‘, 72A’

Chair, Committee for Justice

Amendment 44 [Made without division]

Schedule 1, Page 30, Line 15

After ‘71B’ insert ‘, 72A’

Chair, Committee for Justice

Amendment 45 [Made without division]

Schedule 1, Page 30, Line 22

Leave out ‘71A(3)(a) and 71B(3)(a)’ and insert ‘71A(1A)(a)(i) and (3)(a)(i) and 71B(1A)(a)(i) and (3)(a)(i)’

Chair, Committee for Justice

Amendment 46 [Made without division]

Schedule 1, Page 30, Line 33

At end insert -

- ‘92VB.—(1) An offence under Article 72A of that Order (sending etc an unwanted sexual image), if—
- (a) the offence was committed for the purpose mentioned in Article 72A(3)(a) (sexual gratification), and
 - (b) the relevant condition is met.
- (2) Where the offender was under 18, the relevant condition is that the offender is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months.
- (3) In any other case, the relevant condition is that—
- (a) the victim was under 18, or
 - (b) the offender, in respect of the offence or finding, is or has been—
 - (i) sentenced to a term of imprisonment,
 - (ii) detained in a hospital, or
 - (iii) made the subject of a community sentence of at least 12 months.’.

Chair, Committee for Justice

Amendment 47 [*Made without division*]

Schedule 1, Page 31, Line 7

At end insert -

‘Article 72A (sending etc an unwanted sexual image),’

Chair, Committee for Justice