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Sexual Offences Act 1967

CHAPTER 60

ARRANGEMENT OF SECTIONS

Section

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ELIZABETH II



1967 CHAPTER 60

An Act to amend the law of England and Wales relating to homosexual acts. [27th July 1967]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1.—(1) Notwithstanding any statutory or common law provision, but subject to the provisions of the next following section, a homosexual act in private shall not be an offence provided that the parties consent thereto and have attained the age of twenty-one years. Amendment of law relating to homosexual acts in private.

(2) An act which would otherwise be treated for the purposes of this Act as being done in private shall not be so treated if done—

- (a) when more than two persons take part or are present; or
- (b) in a lavatory to which the public have or are permitted to have access, whether on payment or otherwise.

(3) A man who is suffering from severe subnormality within the meaning of the Mental Health Act 1959 cannot in law give any consent which, by virtue of subsection (1) of this section, would prevent a homosexual act from being an offence, but a person shall not be convicted, on account of the incapacity of such a man to consent, of an offence consisting of such an act if he proves that he did not know and had no reason to suspect that man to be suffering from severe subnormality. 1959 c. 72.

(4) Section 128 of the Mental Health Act 1959 (prohibition on men on the staff of a hospital, or otherwise having responsibility for mental patients, having sexual intercourse with women

patients) shall have effect as if any reference therein to having unlawful sexual intercourse with a woman included a reference to committing buggery or an act of gross indecency with another man.

(5) Subsection (1) of this section shall not prevent an act from being an offence (other than a civil offence) under any provision of the Army Act 1955, the Air Force Act 1955 or the Naval Discipline Act 1957.

1955 c. 18.
1955 c. 19.
1957 c. 53.

(6) It is hereby declared that where in any proceedings it is charged that a homosexual act is an offence the prosecutor shall have the burden of proving that the act was done otherwise than in private or otherwise than with the consent of the parties or that any of the parties had not attained the age of twenty-one years.

(7) For the purposes of this section a man shall be treated as doing a homosexual act if, and only if, he commits buggery with another man or commits an act of gross indecency with another man or is a party to the commission by a man of such an act.

Homosexual
acts on
merchant
ships.

2.—(1) It shall continue to be—

- (a) an offence under section 12 of the Act of 1956 and at common law for a man to commit buggery with another man in circumstances in which by reason of the provisions of section 1 of this Act it would not be an offence (apart from this section); and
- (b) an offence under section 13 of that Act for a man to commit an act of gross indecency with another man, or to be party to the commission by a man of such an act, in such circumstances as aforesaid,

provided that the act charged is done on a United Kingdom merchant ship, wherever it may be, by a man who is a member of the crew of that ship with another man who is a member of the crew of that or any other United Kingdom merchant ship.

(2) Section 11 of the Criminal Justice Act 1925 (venue in indictable offences) shall apply to an act which is an offence by virtue of this section as if it were an offence when done on land.

(3) In this section—

“member of the crew” in relation to a ship, includes the master of the ship and any apprentice to the sea service serving in that ship;

“United Kingdom merchant ship” means a ship registered in the United Kingdom habitually used or used at the time of the act charged for the purposes of carrying passengers or goods for reward.

3.—(1) The maximum punishment which may be imposed on conviction on indictment of a man for buggery with another man of or over the age of sixteen shall, instead of being imprisonment for life as prescribed by paragraph 3 of Schedule 2 to the Act of 1956, be—

Revised
punish-
ments for
homosexual
acts.

- (a) imprisonment for a term of ten years except where the other man consented thereto; and
- (b) in the said excepted case, imprisonment for a term of five years if the accused is of or over the age of twenty-one and the other man is under that age, but otherwise two years;

and the maximum punishment prescribed by that paragraph for an attempt to commit buggery with another man (ten years) shall not apply where that other man is of or over the age of sixteen.

(2) The maximum punishment which may be imposed on conviction on indictment of a man of or over the age of twenty-one of committing an act of gross indecency with another man under that age or of being a party to or procuring or attempting to procure the commission by a man under that age of such an act with another man shall, instead of being imprisonment for a term of two years as prescribed by paragraph 16 of the said Schedule 2, be imprisonment for a term of five years.

(3) References in this section to a person's age, in relation to any offence, are references to his age at the time of the commission of the offence.

(4) Accordingly the said Schedule 2 shall be amended as follows:—

- (a) in paragraph 3(a) for the word "Life" there shall be substituted the words "If with a boy under the age of sixteen or with a woman or an animal, life; otherwise the relevant punishment prescribed by section 3 of the Sexual Offences Act 1967";
- (b) in paragraph 3(b) for the words "Ten years" there shall be substituted the words "If with a boy under the age of sixteen or with a woman or an animal, ten years";
- (c) in paragraph 16(a) for the words "Two years" there shall be substituted the words "If by a man of or over the age of twenty-one with a man under that age, five years; otherwise two years";
- (d) in paragraph 16(b) for the words "Two years" there shall be substituted the words "If the attempt is by a man of or over the age of twenty-one to procure a man under that age to commit an act of gross indecency with another man, five years; otherwise two years".

Procuring others to commit homosexual acts.

4.—(1) A man who procures another man to commit with a third man an act of buggery which by reason of section 1 of this Act is not an offence shall be liable on conviction on indictment to imprisonment for a term not exceeding two years.

(2) The Act of 1952 shall have effect as if offences under the foregoing subsection were included among those specified in paragraphs 1 to 18 of Schedule 1 to that Act (indictable offences triable summarily with the consent of the accused).

(3) It shall not be an offence under section 13 of the Act of 1956 for a man to procure the commission by another man of an act of gross indecency with the first-mentioned man which by reason of section 1 of this Act is not an offence under the said section 13.

Living on earnings of male prostitution.

5.—(1) A man or woman who knowingly lives wholly or in part on the earnings of prostitution of another man shall be liable—

(a) on summary conviction to imprisonment for a term not exceeding six months; or

(b) on conviction on indictment to imprisonment for a term not exceeding seven years.

(2) A person accused of an offence under this section cannot claim to be tried on indictment under section 25 of the Act of 1952 (right of accused to trial by jury for summary offences punishable with more than three months imprisonment).

(3) Anyone may arrest without a warrant a person found committing an offence under this section.

Premises resorted to for homosexual practices.

6. Premises shall be treated for purposes of sections 33 to 35 of the Act of 1956 as a brothel if people resort to it for the purpose of lewd homosexual practices in circumstances in which resort thereto for lewd heterosexual practices would have led to its being treated as a brothel for the purposes of those sections.

Time limit on prosecutions.

7.—(1) No proceedings for an offence to which this section applies shall be commenced after the expiration of twelve months from the date on which that offence was committed.

(2) This section applies to—

(a) any offence under section 13 of the Act of 1956 (gross indecency between men);

(b) any offence under section 32 of that Act (soliciting and importuning by men for immoral purposes) where the immoral purpose is the commission of a homosexual act;

(c) any offence of buggery by a man with another man not amounting to an assault on that other man and not being an offence by a man with a boy under the age of sixteen.

8. No proceedings shall be instituted except by or with the consent of the Director of Public Prosecutions against any man for the offence of buggery with, or gross indecency with, another man, for attempting to commit either offence, or for aiding, abetting, counselling, procuring or commanding its commission where either of those men was at the time of its commission under the age of twenty-one: Restriction on prosecutions.

Provided that this section shall not prevent the arrest, or the issue of a warrant for the arrest, of a person for any such offence, or the remand in custody or on bail of a person charged with any such offence.

9.—(1) A man charged before a magistrates' court with an offence under section 32 of the Act of 1956 (soliciting and importuning by men for immoral purposes) where the immoral purpose is the commission of a homosexual act shall be entitled to claim under section 25 of the Act of 1952 to be tried by a jury; and accordingly— Choice of mode of trial for certain offences.

(a) in the said section 25 (as amended by Schedule 3 to the Act of 1956) for the words "section 30, 31 or 32 of the Sexual Offences Act 1956" there shall be substituted the words "section 30 or 31 of the Sexual Offences Act 1956 or an offence under section 32 of that Act where the immoral purpose is other than the commission of a homosexual act"; 1956 c. 69.

(b) in paragraph 32 of Schedule 2 to the Act of 1956 (offences under the said section 32), in column 4 before the words "The accused" there shall be inserted the words "Except as provided by section 9 of the Sexual Offences Act 1967".

(2) The Act of 1952 shall have effect as if offences under section 13 of the Act of 1956 (gross indecency between men) were included among those specified in paragraphs 1 to 18 of Schedule 1 to the Act of 1952 (indictable offences triable summarily with the consent of the accused); and paragraph 16(a) and (b) of Schedule 2 to the Act of 1956 shall have effect subject to section 19 of the Act of 1952 (summary trial of indictable offences specified in the said Schedule 1).

10.—(1) Except as provided by the following provisions of this section, sections 1, 3, and 4 of this Act shall have effect in relation to acts done before the passing of this Act as they apply in relation to acts done after its passing. Past offences.

(2) Except as provided by the next following subsection, this Act shall not have effect in relation to any act which is, or apart from this Act would be, an offence where the defendant to an indictment for that offence has been committed for trial before

the passing of this Act or, as the case may be, a court-martial for the trial of that offence has been ordered or convened before the passing of this Act.

(3) The foregoing provisions of this section shall not operate to increase the punishment for any offence committed before the passing of this Act.

Short title, citation, interpretation, saving and extent.

1952 c. 55.
1956 c. 69.

11.—(1) This Act may be cited as the Sexual Offences Act 1967 and the Act of 1956 and this Act may be cited as the Sexual Offences Acts 1956 and 1967.

(2) In this Act “the Act of 1952” means the Magistrates’ Courts Act 1952 and “the Act of 1956” means the Sexual Offences Act 1956.

(3) Section 46 of the Act of 1956 (interpretation of “man”, “boy” and other expressions) shall apply for the purposes of the provisions of this Act as it applies for the purposes of the provisions of that Act.

(4) References in this Act to any enactment shall, except in so far as the context otherwise requires, be construed as references to that enactment as amended or applied by or under any subsequent enactment including this Act.

(5) This Act shall not extend to Scotland or Northern Ireland.

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