



Number 15 of 2006

CRIMINAL LAW (SEXUAL OFFENCES) ACT 2006

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SCHEDULE
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[No. 15.] *Criminal Law (Sexual Offences) Act* [2006.]
2006.

ACTS REFERRED TO

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



Number 15 of 2006

CRIMINAL LAW (SEXUAL OFFENCES) ACT 2006

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:

1.—In this Act—

Definitions.

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

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

“person in authority” means—

- (a) a parent, step-parent, guardian, grandparent, uncle or aunt of the victim,
- (b) any person who is, for the time being, in *loco parentis* to the victim, or
- (c) any person who is, for the time being, responsible for the education, supervision or welfare of the victim;

“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.

2.—(1) Any 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. Defilement of child under 15 years of age.

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(2) Any 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 honestly believed 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 honestly believed 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 have regard to the presence or absence of reasonable grounds for the defendant's so believing and all other relevant circumstances.

(5) 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 the age of 17
years.

3.—(1) Any 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, subject to *subsection (3)*, be liable on conviction on indictment—

- (a) to imprisonment for a term not exceeding 5 years, or
- (b) if he or she is a person in authority, to imprisonment for a term not exceeding 10 years.

(2) Any 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, subject to *subsection (4)* be liable on conviction on indictment—

- (a) to imprisonment for a term not exceeding 2 years, or
- (b) if he or she is a person in authority, to imprisonment for a term not exceeding 4 years.

(3) A person who has been convicted of an offence under *subsection (1)* shall, in respect of any subsequent conviction of an offence under that subsection, be liable on conviction on indictment—

- (a) to imprisonment for a term not exceeding 10 years, or
- (b) if he or she is a person in authority, to imprisonment for a term not exceeding 15 years.

(4) A person who has been convicted of an offence under *subsection (2)* shall, in respect of any subsequent conviction of an offence under that subsection be liable on conviction on indictment—

- (a) to imprisonment for a term not exceeding 4 years, or
- (b) if he or she is a person in authority, to imprisonment for a term not exceeding 7 years.

(5) It shall be a defence to proceedings for an offence under this section for the defendant to prove that he or she honestly believed 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.

(6) Where, in proceedings for an offence under this section, it falls to the court to consider whether the defendant honestly believed 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 have regard to the presence or absence of reasonable grounds for the defendant's so believing and all other relevant circumstances.

(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) An offence under *subsection (2)* shall be an arrestable offence for the purposes of the Criminal Law Act 1997.

(9) 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.

(10) A person who—

- (a) has been convicted of an offence under this section, and
- (b) is not more than 24 months older than the child under the age of 17 years with whom he or she engaged or attempted to engage in a sexual act,

shall not be subject to the provisions of the Sex Offenders Act 2001.

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

- (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.

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

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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.

(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*.”.

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

9.—This Act may be cited as the *Criminal Law (Sexual Offences) Act 2006*. Short title.

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