



Number 38 of 1996

SEXUAL OFFENCES (JURISDICTION) ACT, 1996

AN ACT TO EXTEND THE CRIMINAL LAW OF THE STATE TO SEXUAL ACTS INVOLVING CHILDREN DONE OUTSIDE THE STATE BY CITIZENS OF THE STATE OR BY PERSONS ORDINARILY RESIDENT IN THE STATE AND TO PROVIDE FOR RELATED MATTERS.

[19th December, 1996]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1.—(1) In this Act “a child” means a person under the age of 17 years. Interpretation.

(2) A reference in this Act to any enactment shall be construed as a reference to that enactment as amended, adapted or extended, whether before or after the passing of this Act, by or under any subsequent enactment.

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— Sexual offences committed outside State.

(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.

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(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.

Offence to transport person for purposes of enabling offence to which *section 2 (1)* relates to be committed.

3.—(1) A person who, in the State, makes an arrangement to transport a person to a place in or outside the State or who authorises the making of such an arrangement for or on behalf of another person, knowingly for the purpose of enabling that person or any other person to commit an offence, which is an offence by virtue of *section 2 (1)* of this Act, shall be guilty of an offence.

(2) A person who transports another person from a place in the State to a place in or outside the State, knowingly for the purpose of enabling that person or any other person to commit an offence, which is an offence by virtue of *section 2 (1)* of this Act, shall be guilty of an offence.

Offence to publish information likely to promote etc. commission of offence to which *section 2 (1)* relates.

4.—A person who publishes information which is intended to or, having regard to all the circumstances, is likely to promote, advocate or incite the commission of an offence, which is an offence by virtue of *section 2 (1)* of this Act, shall be guilty of an offence.

Offences by bodies corporate.

5.—Where an offence under this Act is committed by a body corporate and is proved to have been committed with the consent or connivance of or to be attributable to any neglect on the part of any person, being a director, manager, secretary or other similar officer of such body, or a person who was purporting to act in any such capacity, that person as well as the body corporate shall be guilty of an offence and shall be liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

Penalties.

6.—A person guilty of an offence under this Act (other than an offence under *section 2* or *10*) shall be liable—

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- (a) on summary conviction, to a fine not exceeding £1,500 or to imprisonment for a term not exceeding 12 months or to both, or
- (b) on conviction on indictment, to a fine not exceeding £10,000 or to imprisonment for a term not exceeding 5 years or to both.

7.—Proceedings for an offence which is an offence by virtue of subsection (1) of section 2 of this Act, or which is an offence under subsection (2) or (6) of section 2 of this Act, may be taken in any place in the State and the offence may for all incidental purposes be treated as having been committed in that place.

Proceedings to which subsections (1), (2) and (6) of section 2 relate.

8.—In proceedings for an offence, which is an offence under or by virtue of section 2 or 3 of this Act, the court may have regard to a person's physical appearance or attributes for the purpose of determining whether that person is under the age of 17 years or was, at the time of the alleged commission of the offence to which the proceedings relate, under the age of 17 years.

Evidence as to a person's age.

9.—Where a person has been acquitted or convicted, in a place other than the State, of an offence, that person shall not be proceeded against for an offence under this Act or an offence which is an offence by virtue of this Act, in respect of the act constituting the first-mentioned offence.

Double jeopardy.

10.—(1) Where, on the application of a member of the Garda Síochána, a judge of the District Court is satisfied that there are reasonable grounds for believing that evidence of or relating to an offence under this Act is to be found on premises specified in the application, the judge may issue a warrant for the search of those premises.

Power of search.

(2) A warrant issued under this section shall authorise a named member of the Garda Síochána, alone or accompanied by any other member of the Garda Síochána, to enter, within one week from the date of the warrant, and if necessary by the use of force, the premises named in the warrant, and to search it and seize anything found thereon appearing to be evidence relating to an offence under this Act.

(3) A member of the Garda Síochána acting in accordance with a warrant issued under this section may require any person found on premises to which the warrant relates to furnish the said member with his or her name and address.

(4) Any person who obstructs or attempts to obstruct any member of the Garda Síochána acting in accordance with a warrant issued under this section or who fails or refuses to comply with a requirement under this section shall be guilty of an offence, and shall be liable on summary conviction to a fine not exceeding £1,500 or to imprisonment for a term not exceeding 12 months or to both.

(5) A member of the Garda Síochána may arrest without warrant any person whom he or she suspects of committing or having committed an offence under this section.

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Short title. **11.**—This Act may be cited as the Sexual Offences (Jurisdiction) Act, 1996.

Section 2.

SCHEDULE

1. Section 1 of the Criminal Law Amendment Act, 1935.
2. Section 2 of the Criminal Law Amendment Act, 1935.
3. Section 2 of the Criminal Law (Rape) Act, 1981.
4. Section 2 of the Criminal Law (Rape) (Amendment) Act, 1990.
5. Section 3 of the Criminal Law (Rape) (Amendment) Act, 1990.
6. Section 4 of the Criminal Law (Rape) (Amendment) Act, 1990.
7. Section 3 of the Criminal Law (Sexual Offences) Act, 1993.
8. Section 4 of the Criminal Law (Sexual Offences) Act, 1993.
9. Section 5 of the Criminal Law (Sexual Offences) Act, 1993.

ACTS REFERRED TO

Criminal Law Amendment Act, 1935	1935, No. 6
Criminal Law (Rape) Act, 1981	1981, No. 10
Criminal Law (Rape) (Amendment) Act, 1990	1990, No. 32
Criminal Law (Sexual Offences) Act, 1993	1993, No. 20