

2023 No. 142 (C. 9)

JUSTICE

The Justice (Sexual Offences and Trafficking Victims) (2022 Act) (Commencement No.2) Order (Northern Ireland) 2023

Made - - - - *21st September 2023*

The Department of Justice makes the following order in exercise of the power conferred by section 30(2) and (3) of the Justice (Sexual Offences and Trafficking Victims) Act (Northern Ireland) 2022(a).

Citation and Interpretation

1. This Order may be cited as the Justice (Sexual Offences and Trafficking Victims) (2022 Act) (Commencement No. 2) Order (Northern Ireland) 2023.

2. In this Order “the Act” means the Justice (Sexual Offences and Trafficking Victims) Act (Northern Ireland) 2022.

Appointed Day

3. Chapter 2 and Chapter 3 of Part 1 of the Act come into operation on 28th September 2023.

Transitional Provisions

4. Section 19 (Serious sexual offences: exclusion of public from court) of the Act does not apply-

- (a) in relation to the Crown Court, to any trial where the accused (or, if more than one, any of the accused) was arraigned before 28th September 2023; and
- (b) in relation to the Court of Appeal-
 - (i) to any hearing of an application for leave to appeal, or of an application for leave to refer a sentence under section 36 of the Criminal Justice Act 1988, where the application was made before 28th September 2023;
 - (ii) to any hearing of an appeal where the appeal was made either with leave granted on an application made before 28th September 2023 or by virtue of a certificate granted by the judge of the court of trial before that date; and
 - (iii) to any hearing of a reference under section 36 of the Criminal Justice Act 1988 where the reference was made with leave granted on an application made before 28th September 2023.

5. For the purposes of Article 4(b) and for the avoidance of doubt, where an application for leave to appeal is refused by a single judge and the application is renewed to the Court of Appeal,

(a) 2022 c.19 (N.I.)

the date of the application for leave to appeal is the date of the original application and not the date of the renewed application.

Sealed with the Official Seal of the Department of Justice on 21st September 2023



Richard Pengelly CB

A senior officer of the Department of Justice

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings Chapter 2 and Chapter 3 of Part 1 of the Justice (Sexual Offences and Trafficking Victims) Act (Northern Ireland) 2022 into operation on 28th September 2023.

Chapter 2 of Part 1-

extends the current lifelong anonymity of the victim of a sexual offence to provide for their anonymity for 25 years after death. Applications can be made to the court to discharge or modify reporting restrictions, including to reduce or increase the period of 25 years;

increases the penalty for breach of anonymity of the victim to a maximum of six months imprisonment or a fine or both;

provides for the anonymity of suspects in sexual offence cases up to the point of charge. Where the suspect is not subsequently charged, then the anonymity will be protected during their lifetime and for 25 years after death. The provisions allow for application to be made to the court to dis-apply or modify reporting restrictions, including to reduce or increase the period of 25 years;

creates a new offence of breach of anonymity of the suspect with a maximum penalty of six months imprisonment or a fine or both; and

excludes the public from hearings of serious sexual offence cases in the Crown Court and those proceeded by appeal to the Court of Appeal.

Section 19 (Serious sexual offences: exclusion of public from court) is subject to the transitional provisions set out in Articles 4 and 5 of this Order which provides that section 19 does not apply to-

Crown Court trials in which the arraignment of the accused took place before 28th September 2023; and

to hearings of applications for leave to appeal to the Court of Appeal where application was made before 28th September 2023 and to appeal hearings where leave to appeal was granted either on application for leave made before 28th September 2023 or by a certificate granted by the judge of the court of trial before that date.

Chapter 3 of Part 1-

provides that the Department of Justice in Northern Ireland must publish guidance about the effect of Part 1 of the Act; and such other matters as the Department of Justice considers appropriate as to the criminal law or procedure relating to Part 1 in Northern Ireland;

specifies that guidance must include information for the training of personnel in any public body that has functions within the Criminal Justice System in Northern Ireland that the Department considers appropriate on the effect of Part 1; and the sort of information to be obtained from them for the purpose of the assessment of the operation of the Act;

provides that a person exercising public functions to whom the guidance relates must have regard to it in the exercise of those functions and the Department must keep any issued guidance under review and revise that guidance in light of review. The guidance must be published.

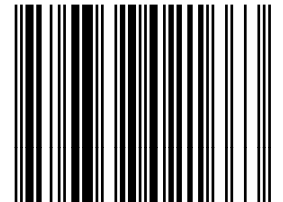
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£5.78

<http://www.legislation.gov.uk/id/misr/2023/142>

ISBN 978-0-33-802166-3



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