

Criminal Law (Sexual Offences) Act, 1993

No. 20/1993:

CRIMINAL LAW (SEXUAL OFFENCES) ACT, 1993

ARRANGEMENT OF SECTIONS

Section

- [1. Interpretation.](#)
- [2. Abolition of offence of buggery between persons.](#)
- [3. Buggery of persons under 17 years of age.](#)
- [4. Gross indecency with males under 17 years of age.](#)
- [5. Protection of mentally impaired persons.](#)
- [6. Soliciting or importuning for purposes of commission of sexual offence.](#)
- [7. Soliciting or importuning for purposes of prostitution.](#)
- [8. Loitering for purposes of prostitution.](#)
- [9. Organisation of prostitution.](#)
- [10. Living on earnings of prostitution.](#)
- [11. Brothel keeping.](#)
- [12. Amendment of section 19 of Criminal Law Amendment Act, 1935 \(search of brothels\).](#)
- [13. Powers of arrest.](#)
- [14. Repeals.](#)
- [15. Short title and collective citation.](#)

SCHEDULE

ENACTMENTS REPEALED

ACTS REFERRED TO

Criminal Law Amendment Act, 1885	48 & 49 Vict. c. 69
Criminal Law Amendment Act, 1912	2 & 3 Geo. 5 c. 20
Criminal Law Amendment Act, 1935	1935, No. 6
Criminal Law Amendment Acts 1885 to 1935	
Dublin Police Act, 1842	5 & 6 Vict. c. 24
Offences against the Person Act, 1861	24 & 25 Vict. c. 100
Towns Improvement (Ireland) Act, 1854	17 & 18 Vict. c. 103
Town Police Clauses Act, 1847	10 & 11 Vict. c. 89
Vagrancy Act, 1898	61 & 62 Vict. c. 39

Number 20 of 1993

CRIMINAL LAW (SEXUAL OFFENCES) ACT, 1993

AN ACT TO AMEND THE LAW IN RELATION TO SEXUAL OFFENCES AND FOR THAT PURPOSE TO AMEND THE OFFENCES AGAINST THE PERSON ACT, 1861, IN RELATION TO BUGGERY; TO AMEND THE CRIMINAL LAW AMENDMENT ACTS, 1885 TO 1935; TO REPEAL THE VAGRANCY ACT, 1898, AND CERTAIN PROVISIONS OF CERTAIN OTHER ENACTMENTS RELATING TO SEXUAL OFFENCES AND TO PROVIDE FOR CONNECTED MATTERS.

[7th July, 1993]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

Interpretation. **1.**—(1) In this Act—

"motor vehicle" means a mechanically propelled vehicle intended or adapted for use on roads;

"public place" means any place to which the public have access whether as of right or by permission and whether subject to or free of charge;

"solicits or importunes" includes soliciting or importuning from or in a motor vehicle, and cognate words shall be construed accordingly;

"street" includes any road, bridge, lane, footway, subway, square, court, alley or passage, whether a thoroughfare or not, which is for the time being open to the public; and the doorways, entrances and gardens abutting on a street and any ground or car-park adjoining and open to a street, shall be treated as forming part of a street.

(2) In this Act a person solicits or importunes for the purposes of prostitution where the person—

(a) offers his or her services as a prostitute to another person,

(b) solicits or importunes another person for the purpose of obtaining that other person's services as a prostitute, or

(c) solicits or importunes another person on behalf of a person for the purposes of prostitution.

(3) In this Act references to sexual intercourse shall be construed as references to carnal knowledge as defined in section 63 of the Offences against the Person Act, 1861.

(4) In this Act and in any other enactment, whether passed before or after this Act, a reference to a prostitute includes a reference to a male person who is a prostitute and a reference to prostitution shall be construed accordingly.

(5) In this Act a reference to a subsection is a reference to the subsection of the provision in which the reference occurs unless it is indicated that reference to some other provision is intended.

Abolition of offence of buggery between persons.

2.—Subject to *sections 3 and 5* of this Act, any rule of law by virtue of which buggery between persons is an offence is hereby abolished.

Buggery of persons under 17 years of age.

3.—A person who commits or attempts to commit an act of buggery with a person under the age of 17 years (other than a person to whom he is married or to whom he believes with reasonable cause he is married) shall be guilty of an offence and shall be liable on conviction on indictment to—

(a) in the case of an act of buggery with a person under the age of 15 years, imprisonment for life,

(b) in the case of an attempt to commit an act of buggery with a person under the age of 15 years, imprisonment for a term not exceeding 5 years in the case of a first conviction, and in the case of a second or any subsequent conviction imprisonment for a term not

exceeding 10 years,

(*c*) in the case of an act of buggery with a person of or over the age of 15 years and under the age of 17 years, imprisonment for a term not exceeding 5 years in the case of a first conviction, and in the case of a second or any subsequent conviction imprisonment for a term not exceeding 10 years, and

(*d*) in the case of an attempt to commit an act of buggery with a person of or over the age of 15 years and under the age of 17 years, imprisonment for a term not exceeding 2 years in the case of a first conviction, and in the case of a second or any subsequent conviction imprisonment for a term not exceeding 5 years.

Gross indecency with males under 17 years of age.

4.—A male person who commits or attempts to commit an act of gross indecency with another male person under the age of 17 years shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for a term not exceeding 2 years.

Protection of mentally impaired persons.

5.—(1) A person who—

(*a*) has or attempts to have sexual intercourse, or

(*b*) commits or attempts to commit an act of buggery,

with a person who is mentally impaired (other than a person to whom he is married or to whom he believes with reasonable cause he is married) shall be guilty of an offence and shall be liable on conviction on indictment to—

(i) in the case of having sexual intercourse or committing an act of buggery, imprisonment for a term not exceeding 10 years, and

(ii) in the case of an attempt to have sexual intercourse or an attempt to commit an act of buggery, imprisonment for a term not exceeding 3 years in the case of a first conviction, and in the case of a second or any subsequent conviction imprisonment for a term not exceeding 5 years.

(2) A male person who commits or attempts to commit an act of gross indecency with another male person who is mentally impaired shall be guilty of an offence and shall be liable on conviction on 5 indictment to imprisonment for a term not exceeding 2 years.

(3) In any proceedings under this section it shall be a defence for the accused to show that at the time of the alleged commission of the offence he did not know and had no reason to suspect that the person in respect of whom he is charged was mentally impaired.

(4) Proceedings against a person charged with an offence under this section shall not be taken except by or with the consent of the Director of Public Prosecutions.

(5) In this section "mentally impaired" means suffering from a disorder of the mind, whether through mental handicap or mental illness, which is of such a nature or degree as to render a person incapable of living an independent life or of guarding against serious exploitation.

Soliciting or importuning for purposes of commission of sexual offence.

6.—A person who solicits or importunes another person for the purposes of the commission of an act which would constitute an offence under *section 3, 4* or *5* of this Act or [section 1](#) or [2](#) of the [Criminal Law Amendment Act, 1935](#), shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,000 or to imprisonment for a term not exceeding 12 months or to both.

Soliciting or importuning for purposes of prostitution.

7.—A person who in a street or public place solicits or importunes another person or other persons for the purposes of prostitution shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding—

(a) £250, in the case of a first conviction,

(b) £500, in the case of a second conviction, or

(c) £500 or to imprisonment for a term not exceeding 4 weeks or to both, in the case of a third or any subsequent conviction.

Loitering for purposes of prostitution.

8.—(1) A member of the Garda Síochána who has reasonable cause to suspect that a person is loitering in a street or public place in order to solicit or importune another person or other persons for the purposes of prostitution may direct that person to leave immediately that street or public place.

(2) A person who without reasonable cause fails to comply with a direction under *subsection (1)* shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding—

(a) £250, in the case of a first conviction,

(b) £500, in the case of a second conviction, or

(c) £500 or to imprisonment for a term not exceeding 4 weeks or to both, in the case of a third or any subsequent conviction.

(3) In this section "loitering" includes loitering in a motor vehicle.

Organisation of prostitution.

9.—A person who for gain—

(a) controls or directs the activities of a prostitute in respect of

prostitution,

(*b*) organises prostitution by controlling or directing the activities of more than one prostitute for that purpose, or

(*c*) compels or coerces a person to be a prostitute, shall be guilty of an offence and shall be liable—

(i) on summary conviction to a fine not exceeding £1,000 or to imprisonment for a term not exceeding 6 months or to both, or

(ii) on conviction on indictment to a fine not exceeding £10,000 or to imprisonment for a term not exceeding 5 years or to both.

Living on earnings of prostitution.

10.—(1) A person who knowingly lives in whole or in part on the earnings of the prostitution of another person and aids and abets that prostitution shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,000 or to imprisonment for a term not exceeding 6 months or to both.

(2) If a judge of the District Court is satisfied on the sworn information of a member of the Garda Síochána not below the rank of sergeant that there are reasonable grounds for suspecting that any premises or any part of a premises is used by a person for the purposes of prostitution, and that any person residing in or frequenting the premises or part of the premises is living in whole or in part on the earnings of the prostitution of another person, he may issue a warrant under his hand authorising any member of the Garda Síochána, accompanied by other members of the Garda Síochána, at any time or times within one month from the date of issue of the warrant, on production if so requested of the warrant, to enter, if need be by force, and search the premises and arrest that person.

(3) A person who obstructs or interferes with a member of the Garda Síochána acting under the authority of a warrant under *subsection (2)* shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,000 or to imprisonment for a term not exceeding 6 months or to both.

Brothel keeping.

11.—A person who—

(*a*) keeps or manages or acts or assists in the management of a brothel,

(*b*) being the tenant, lessee, occupier or person in charge of a premises, knowingly permits such premises or any part thereof to be used as a brothel or for the purposes of habitual prostitution, or

(*c*) being the lessor or landlord of any premises or the agent of such lessor or landlord, lets such premises or any part thereof with the knowledge that such premises or some part thereof are or is to be used as a brothel, or is wilfully a party to the continued use of such premises or any part thereof as a brothel,

shall be guilty of an offence and shall be liable—

(i) on summary conviction to a fine not exceeding £1,000 or to imprisonment for a term not exceeding 6 months or to both, or

(ii) on conviction on indictment to a fine not exceeding £10,000 or to imprisonment for a term not exceeding 5 years or to both.

Amendment of [section 19](#) of [Criminal Law Amendment Act, 1935](#) (search of brothels).

12.— [Section 19](#) of the [Criminal Law Amendment Act, 1935](#) , is hereby amended by—

(a) the substitution of "sergeant" for "inspector" in each place it occurs, and

(b) the substitution in subsection (4) of "£500" for "five pounds".

Powers of arrest.

13.—(1) If a member of the Garda Síochána reasonably suspects that a person has committed an offence under *section 4, 6, 7, 8 (2) or 10 (3)* of this Act he may-

(a) arrest that person without warrant, or

(b) require him to give his name and address and, if the person fails or refuses to do so or gives a name or address that the member reasonably suspects to be false or misleading, the member may arrest that person without warrant.

(2) A person who fails or refuses to give his name or address when required under *subsection (1)*, or gives a name or address which is false or misleading, shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £500.

Repeals.

14.—The enactments specified in *column (2)* of the Schedule to this Act are hereby repealed to the extent specified in *column (3)* of that Schedule.

Short title and collective citation.

15. -(1) This Act may be cited as the [Criminal Law \(Sexual Offences\) Act, 1993](#) .

(2) The Criminal Law Amendment Acts, 1885 to 1935, and this Act may be cited together as the Criminal Law (Sexual Offences) Acts, 1885 to 1993.

Section 14.

SCHEDULE

ENACTMENTS REPEALED

Session and Chapter or Year and Number	Short Title (2)	Extent of Repeal (3)
(1)		
5 & 6 Vict., c. 24	Dublin Police Act, 1842	Paragraph 11 of section 14.
10 & 11 Vict., c. 89	Town Police clauses Act, 1847	In section 28 the words "Every common Prostitute or Nightwalker loitering and importuning Passengers for the Purpose of Prostitution:".
17 & 18 Vict., c. 103	Towns Improvement (Ireland) Act, 1845	In section 72 the words "Every common Prostitute or Nightwalker loitering and importuning Passengers for the Purpose of Prostitution, or being otherwise offensive, shall be liable to a fine not exceeding Forty Shillings:".
24 & 25 Vict., c. 100	Offences against the Person Act, 1861	Sections 61 and 62 (save in so far as they apply to buggery or attempted buggery with animals).
48 & 49 Vict., c. 69	Criminal Law Amendment Act, 1885	Section 11.
61 & 62 Vict., c. 39	Vagrancy Act, 1898	The whole Act.
2 & 3 Geo. 5, c. 20	Criminal Law Amendment Act,	Sections 3 and 7.

1912
1935, No. 6 [Criminal Law
Amendment Act,
1935](#) Sections 4, 13 and
16.

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