

**WRITTEN QUESTION TO H.M. ATTORNEY GENERAL
BY DEPUTY K.G. PAMPLIN OF ST. SAVIOUR
ANSWER TO BE TABLED ON TUESDAY 26th FEBRUARY 2019**

Question

Will H.M. Attorney General advise how many cases have been brought to trial under Part 5, Article 15, of the Sexual Offences (Jersey) Law 2018; and will he state whether the Law differs from equivalent legislation in the U.K. and, if so, how?

Answer

The Sexual Offences (Jersey) Law 2018 came in to force on 23 November 2018. Offences committed before this date cannot be prosecuted under this law as it is not retrospective.

Article 15 of the Sexual Offences (Jersey) Law 2018 (sexual grooming of a child) updated and replaced Article 2 of the Sexual Offences (Jersey) Law 2007. Accordingly, any offences committed prior to 23 November 2018 are (and were) prosecuted under the 2007 Law. The main differences between Article 15 of the 2018 Law and Article 2 of the 2007 Law are that:

- i. under the 2018 Law the adult only needs to have met or communicated with the child on one earlier occasion (instead of at least two occasions under the 2007 Law); and,
- ii. the offence of grooming can now be committed without the adult and the child ever meeting, by an adult simply communicating sexually (as defined), with a child (who may be located anywhere in the world) for the purpose of obtaining sexual gratification.

To date one case has been prosecuted under Article 15 of the 2018 Law. Since 2015 a total of 18 cases have been prosecuted under Article 2 of the 2007 Law.

Out of the 19 cases brought to court since 2015 (under both the 2007 and 2018 Laws) there have been 15 convictions, one acquittal and there are three cases yet to be determined by the Courts.

Article 15 of the Sexual Offences (Jersey) Law 2018 provides:

15 Sexual grooming of a child

- (1) An adult commits an offence, and is liable to imprisonment for a term of 10 years and to a fine, if –
 - (a) having met or communicated with another person on at least one earlier occasion, the adult –
 - (i) intentionally meets the other person, or
 - (ii) travels with the intention of meeting the other person in any part of the world;
 - (b) at the time, the adult intends to do anything to or in respect of the other person, during or after the meeting and in any part of the world, which if done will involve the commission by the adult of a relevant offence; and
 - (c) the other person is aged 15 or younger.
- (2) In paragraph (1), the reference to the adult having met or communicated with the other person is a reference to the adult –
 - (a) having met the other person in any part of the world; or
 - (b) having communicated with the other person by any means from, to or in any part of the world.
- (3) For the purpose of paragraph (1)(b) a relevant offence is any of the following –
 - (a) an offence under this Law;
 - (b) a customary law offence of indecent assault or indecent exposure;

- (c) an offence under –
 - (i) Article 38(2)(a) or (b) (having or procuring unlawful sexual intercourse with a mental patient) of the Mental Health (Jersey) Law 1969^[3], or
 - (ii) any of Articles 74 to 76 (sexual offences: prohibited acts, relationship of care, coercion) of the Mental Health (Jersey) Law 2016^[4];
 - (d) an offence under Article 2 (taking, possessing or distributing indecent photographs, etc. of children) of the Protection of Children (Jersey) Law 1994^[5];
 - (e) an offence under Article 61 of the Customs and Excise (Jersey) Law 1999^[6] in so far as the offence relates to goods prohibited to be imported under Article 2 of the Customs and Excise (Import and Export Control) (Jersey) Order 2006^[7] that are indecent photographs of persons who are or appear to be aged under 16 years;
 - (f) an offence under Article 11(14) (breach of child protection order, interim child protection order or prescribed order) of the Sex Offenders (Jersey) Law 2010^[8]; and
 - (g) an offence, whether under customary law or under Article 1 of the Criminal Offences (Jersey) Law 2009^[9], of aiding, abetting, counselling or procuring an offence falling within any of the preceding sub-paragraphs, or of conspiring or attempting to commit, or of inciting another to commit, such an offence.
- (4) The States may by Regulations amend paragraph (2).
- (5) An adult commits an offence, and is liable to imprisonment for a term of 5 years and to a fine, if –
- (a) the adult intentionally communicates, by any means, with another person (irrespective of whether the other person is in Jersey or elsewhere);
 - (b) the adult does so for the purpose of obtaining sexual gratification;
 - (c) the communication –
 - (i) is sexual, or
 - (ii) is intended to encourage the other person to make a communication (whether or not to the adult) that is sexual; and
 - (d) the other person is aged 15 or younger.
- (6) It is a defence, in relation to each of the offences under this Article, for the defendant to show that –
- (a) the other person was aged 13 or older; and
 - (b) the defendant reasonably believed that the other person was aged 16 or older.

Article 15 of the Sexual Offences (Jersey) Law 2018 is broadly similar to:

Sections 15 & 15A of the Sexual Offences Act 2003 which applies to England and Wales;

Articles 22 & 22A of the Sexual Offences (Northern Ireland) Order 2008; and,

Section 1 of the Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005 and Sections 24 and 34 of Sexual Offences (Scotland) Act 2009.