

Purpose

This Factsheet is intended as a helpful guide to understanding which offences may require a referral to the Disclosure and Barring Service (DBS) and which offences will, or may, subject to representations, lead to a person being included in an DBS barred list. While every effort has been made to ensure that the Factsheet is accurate, this cannot be guaranteed. Therefore, you are advised to also check the relevant Statutory Instruments (see regulations below) and/or seek your own legal advice.

A person who accepts a caution or receives a conviction for a 'relevant offence' for the purposes of the legislation below, will, subject to the consideration of representations where permitted, be automatically barred from working in regulated activity with children and/or vulnerable adults. (The consideration of representations may result in a decision not to bar a person).

Relevant Offences are commonly referred to as autobar offences but may be referred to in correspondence provided to a person by the DBS as either automatic barring offences, (those which do not enable the person to make representations) or automatic inclusion offences (those which require the DBS to enable the person to make representations). Relevant Offences are set out in this Factsheet and are defined in the following Statutory Instruments:

- Safeguarding Vulnerable Groups Act 2006 (Prescribed Criteria and Miscellaneous Provisions) Regulations 2009 (SI. 2009 No. 37) (as amended);

And

- Safeguarding Vulnerable Groups (Prescribed Criteria and Miscellaneous Provisions) Regulations (Northern Ireland) 2009 (SR. 2009 No. 39) (as amended).

Amendments to the list of offences have been made by the following Regulations:

- Safeguarding Vulnerable Groups Act 2006 (Controlled Activity and Miscellaneous Provisions) Regulations 2010 (SI. 2010 No. 1146)
- Safeguarding Vulnerable Groups Act 2006 (Controlled Activity and Prescribed Criteria) Regulations 2012 (SI. 2012 No. 2160);

And

- Safeguarding Vulnerable Groups (Prescribed Criteria and Miscellaneous Provisions) (Amendment) Regulations (Northern Ireland) 2010 (SR. 2010 No. 31)
- Safeguarding Vulnerable Groups (Prescribed Criteria and Miscellaneous Provisions) (Amendment) Regulations (Northern Ireland) 2012 (SR. 2012 No.319)

The regulations are available on the following website www.legislation.gov.uk



Factsheet 5: Relevant Offences

Automatic bars with representations

Under changes to legislation that commenced on 10 September 2012 for automatic inclusion offences with the right to make representations, the DBS now seeks and considers any representations prior to making a decision as to whether a person should be included in a barred list.

Test for Regulated Activity

Under changes to legislation that commenced on 10 September 2012, the DBS can only bar a person who is or has been, or may in future be, engaged in regulated activity with children and/or vulnerable adults. Without this connection to regulated activity the DBS is unable to place a person in a barred list.

The exception to the test for regulated activity is in relation to 'automatic barring without representations' cases, where the bar will apply to the person irrespective of whether they have worked or may in future work in regulated activity with children and/or vulnerable adults.

Table: Relevant (Automatic Barring) Offences

The following table outlines relevant autobar offences for the purposes of barring. A caution or conviction for one of these offences (committed in the relevant circumstance as outlined in the above regulations) will or may (subject to representations where permitted), result in inclusion in the Children's Barred List and/or the Adults Barred List, as appropriate.

Common Law	
Murder, Common Law England & Wales	
Murder, Common Law Scotland	
Murder, Common Law N Ireland	
Rape, Common Law England & Wales	
Rape, Common Law Scotland	
Rape, Common Law N Ireland	
Kidnapping, Common Law England & Wales	
Kidnapping, Common Law N Ireland	
Infanticide, Common Law England & Wales	



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Common Law (continued)

Infanticide, Common Law N Ireland	
Sodomy, Common Law Scotland	
Indecent Assault, Common Law Scotland	
Clandestine Injury to Child, Common Law Scotland	
Abduction with intent to Rape, Common Law Scotland	
Assault with Intent to Rape, Common Law Scotland	
Lewd, Indecent, or Libidinous Behaviour, Common Law Scotland	

Air Force Act 1955

Section 70	Commission of any equivalent civilian criminal offence (contained in this list)
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Armed Forces Act 2006

Section 42	Commission of any equivalent civilian criminal offence (contained in this list)
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Army Act 1955

Section 70	Commission of any equivalent civilian criminal offence (contained in this list)
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Naval Discipline Act 1957

Section 42	Commission of any equivalent civilian criminal offence (contained in this list)
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Now 'Asylum & Immigration (Treatment of Claimants, etc.) Act 2004' - SI 2012 No.2160 (10 Sept 2012)

Asylum & Immigration Act 2004

Section 4	Trafficking people for exploitation
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Child Abduction Act 1984

Section 1	Take or send a child under the age of 16 out of the UK without the appropriate consent
Section 2	Take or detain a child under the age of 16, without lawful authority or reasonable excuse
Section 6	Take or send a child under the age of 16 out of the UK.

Child Abduction (Northern Ireland) Order 1985

Article 3	Take or send a child under the age of 16 out of the UK without the appropriate consent
Article 4	Take or detain a child under the age of 16, without lawful authority or reasonable excuse

Children and Young Persons Act 1933

Section 1	Cruelty to persons under 16
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Children and Young Persons (Scotland) Act 1937

Section 12	Cruelty to persons under 16
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Children and Young Persons Act (Northern Ireland) 1968

Section 20	Cruelty to persons under 16
Section 21	Causing or encouraging seduction or prostitution of girl under 17
Section 22	Indecent conduct towards child

Civic Government (Scotland) Act 1982

Section 52 (& 52A)	Indecent photographs of children: take, permit or make, possess, distribute or publish an indecent photograph or pseudo photograph of a child.
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Coroners and Justice Act 2009

Section 62	Possession of prohibited images of children (1)
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(1) Inserted 10 September 2012 - SI 2160 (NI - SR319)



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Criminal Law Amendment Act 1885	
Section 2	Causing prostitution of women/procurement of woman under 21
Section 3	Procuring defilement of woman by threats or fraud or administering drugs.
Section 4	Defilement of girl under 14
Section 5	Defilement of girl under 17
Section 6	Householder permitting defilement of young girl on his premises
Section 7	Abduction of girl under 18 with intent to have carnal knowledge.
Section 8	Unlawful detention with intent to have carnal knowledge
Section 11	Any male person who, in public or private, commits, or is a party to the commission of, or procures or attempts to procure the commission by any male person of, any act of gross indecency with another male person

Criminal Justice (Miscellaneous Provisions) Act (Northern Ireland) 1968	
Section 9	Riotous, disorderly and indecent behaviour (2)

Criminal Justice (Scotland) Act 2003	
Section 22	Traffic in prostitution etc. (3)

Criminal Justice and Immigration Act 2008	
Section 63	Possession of extreme pornographic images (3)

Criminal Law Act 1977	
Section 54	Inciting a girl under 16 to have incestuous sexual intercourse

Criminal Justice (Northern Ireland) Order 1980	
Article 9	Inciting a girl under 16 to have incestuous sexual intercourse

(2) Removed 1 April 2010 - SI 1146 (NI - SR319)

(3) Inserted 10 September 2012 - SI 2160 (NI - SR319)



Factsheet 5: Relevant Offences

Criminal Justice (Scotland) Act 1980

Section 80	Homosexual acts
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Criminal Justice Act 1988

Section 160	Possession of indecent photographs of children
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Criminal Justice (Evidence etc.)(Northern Ireland) Order 1988

Article 15	Possession of indecent photograph of a child
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Criminal Law (Consolidation)(Scotland) Act 1995

Section 1	Incest
Section 2	Intercourse with a step-child
Section 3	Intercourse of a person in a position of trust with child under 16
Section 5	Intercourse with a girl under 16
Section 6	Indecent behaviour towards girl between 12 & 16
Section 7	Procuring
Section 8	Abduction and unlawful detention
Section 9	Permitting girl to use premises for intercourse
Section 10	Seduction, prostitution, etc, of girl under 16
Section 11	Trading in prostitution and brothel-keeping
Section 13	Homosexual offences

Criminal Justice (Northern Ireland) Order 2003

Article 19	Buggery
Article 20	Assault with intent to commit buggery
Article 21	Indecent assault on a male

Criminal Justice (Scotland) Act 2003

Section 22	Traffic in prostitution
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Customs and Excise Management Act 1979

Section 170	Penalty for fraudulent evasion of duty relating to importation of indecent or obscene articles
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Domestic Violence, Crime and Victims Act 2004

Section 5	Causing a child or vulnerable adult to die, or suffer serious physical harm
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Female Genital Mutilation Act 2003

Section 1	Female genital mutilation (4)
Section 2	Assisting a girl to mutilate own genitalia (4)
Section 3	Assisting a non-UK person to mutilate overseas a girl's genitalia (4)

Homosexual Offences (Northern Ireland) Order 1982

Article 7	Procuring others to commit homosexual acts
Article 8	Living on earnings of male prostitution

Indecency with Children Act 1960

Section 1	Any person who commits an act of gross indecency with or towards a child under the age of 16 or who incites a child under that age to such an act with him or another
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Infanticide Act 1938

Section 1	Where a woman by any willful act or omission causes the death of her child being a child under the age of 12 months, but at the time of the act or omission the balance of her mind was disturbed
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Infanticide Act (Northern Ireland) 1939

Section 1	Where a woman by any willful act or omission causes the death of her child, being a child under the age of 12 months, but at the time of the act or omission the balance of her mind was disturbed
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(4) Inserted 10 September 2012 - SI 2160 (NI - SR319)



Factsheet 5: Relevant Offences

Mental Health Act 1959

Section 128	Sexual intercourse with a patient
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Mental Health Act 1983

Section 126	Forgery and making false statements (5)
Section 127	Ill treatment of patients
Section 128	Assisting patients to absent themselves without leave, etc (5)
Section 129	Obstruction (5)

Mental Health (Scotland) Act 1984

Section 105	Ill treatment of patients
Section 106	Sexual Intercourse with protected person
Section 107	Sexual Intercourse with mentally handicapped person
Section 108	Assisting patients to absent themselves without leave, etc
Section 109	Obstruction

Mental Health (Northern Ireland) Order 1986

Article 119	Forgery and making false statements
Article 121	Ill treatment of patients
Article 122	Protection of women suffering from severe mental handicap
Article 123	Protection of patients
Article 124	Assisting patients to absent themselves without leave, etc
Article 125	Obstruction

Mental Health (Care and Treatment) (Scotland) Act 2003

Section 311	Non-consensual sex acts
Section 313	Persons providing care services: sexual offences

(5) Removed 10 September 2012 - SI 2160 (NI - SR319)



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Mental Capacity Act 2005

Section 44	Ill-treatment or neglect
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Misuse of Drugs Act 1971

Section 4(3)	Supply of a controlled drug to another
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Nationality, Immigration and Asylum Act 2002

Section 145	Traffic in prostitution
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Offences Against the Person Act 1861

Section 21	Attempt to choke, suffocate or strangle with intent to commit an indictable offence
Section 52	Indecent assault upon a female
Section 53	Abduct of female under 18 with intent to carnally know her
Section 54	Abduct woman with intent to carnally know her
Section 55	Abduction of a girl under 16
Section 61	Buggery
Section 62	Attempted buggery - assault with intent to commit buggery - indecent assault upon a male

Protection of Children Act 1978

Section 1	Indecent photographs of children: take, permit or make, possess, distribute or publish an indecent photograph or pseudo photograph of a child
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Protection of Children (Northern Ireland) Order 1978

Article 3	Indecent photographs of children: take, permit or make, possess, distribute or publish an indecent photograph or pseudo photograph of a child
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Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005

Section 1	Meeting a child following certain preliminary contact
Section 9	Paying for sexual services of a child
Section 10	Causing or inciting provision by child of sexual services or child pornography
Section 11	Controlling a child providing sexual services or child pornography
Section 12	Arranging or facilitating provision by child of sexual services or child pornography

Punishment of Incest Act 1908

Section 1	Incest by male
Section 2	Any person who attempts to have unlawful carnal knowledge of any girl under the age of 15

Sexual Offences Act 1956

Section 1	Rape of man or woman
Section 2	Procurement of a woman by threats
Section 3	Procurement of a woman by false pretences
Section 4	Administering drugs to obtain intercourse
Section 5	Intercourse with a girl under 13
Section 6	Intercourse with a girl under 16
Section 7	Intercourse with defective
Section 9	Procurement of defective
Section 10	Incest by a man
Section 11	Incest by a woman
Section 12	Buggery
Section 13	Gross indecency between men
Section 14	Indecent assault on a woman
Section 15	Indecent assault on a man
Section 16	Assault with intent to commit buggery
Section 17	Abduction of a woman by force for her property

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Sexual Offences Act 1956 (continued)	
Section 19	Abduction of an unmarried girl under 18
Section 20	Abduction of an unmarried girl under 16
Section 21	Abduction of defective from parent or guardian
Section 22	Causing prostitution of women
Section 23	Procuration of a girl under 21
Section 24	Detention of woman in brothel or other premises
Section 25	Permitting girl under 13 to use premises for intercourse
Section 26	Permitting girl between 13 & 16 to use premises for intercourse
Section 27	Permitting defective to use premises for intercourse
Section 28	Causing or encouraging prostitution, intercourse, or indecent assault, on girl under 16
Section 29	Causing or encouraging prostitution of defective
Section 30	Man living on earnings of prostitution
Section 31	Woman exercising control over prostitute

Sexual Offences Act 1967	
Section 4	Procuring others to commit homosexual acts
Section 5	Living on earnings of male prostitution

Sexual Offences (Scotland) Act 1976	
Section 2A	Incest by a man or a woman
Section 2B	Sexual intercourse with step-child
Section 2C	Sexual intercourse with a child by a person in a position of trust or authority
Section 3	Sexual intercourse with a girl under 13
Section 4	Having or attempting to have, sexual intercourse with a girl above age 13 & under age 16



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Sexual Offences (Northern Ireland) Order 1978

Article 3	Rape (6)
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Sexual Offences (Amendment) Act 2000

Section 3	Abuse of position of trust: (a) sexual intercourse whether (vaginal or anal) with a person under 18, (b) to engage in any other sexual activity with or directed to such a person
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Sexual Offences Act 2003

Section 1	Rape
Section 2	Assault by penetration
Section 3	Sexual Assault
Section 4	Causing a person to engage in sexual activity without consent
Section 5	Rape of a child under 13
Section 6	Assault of a child under 13 by penetration
Section 7	Sexual assault of a child under 13
Section 8	Causing or inciting a child to engage in sexual activity
Section 9	Sexual activity with a child
Section 10	Causing or inciting a child to engage in sexual activity
Section 11	Engaging in sexual activity in the presence of a child
Section 12	Causing a child to watch a sexual act
Section 14	Arranging or facilitating commission of a child sex offence
Section 15	Meeting a child after sexual grooming
Section 16	Abuse of position of trust: sexual activity with a child
Section 17	Abuse of position of trust: arranging or inciting a child to engage in sexual activity

(6) Inserted 10 September 2012 - SI 2160 (NI - SR319)



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Sexual Offences Act 2003 (continued)	
Section 18	Abuse of position of trust: sexual activity in the presence of a child
Section 19	Abuse of position of trust: causing a child to watch a sexual act
Section 20	Abuse of position of trust: acts done in Scotland
Section 25	Sexual activity with a child family member
Section 26	Inciting a child family member to engage in sexual activity
Section 30	Sexual activity with a person with a mental disorder or impeding choice
Section 31	Causing or inciting a person, with a mental disorder or impeding choice to engage in sexual activity
Section 32	Engaging in a sexual activity in the presence of a person with a mental disorder or impeding choice
Section 33	Causing a person, with a mental disorder or impeding choice, to watch a sexual act
Section 34	Inducement, threat or deception to procure sexual activity with a person with a mental disorder
Section 35	Causing a person with a mental disorder to engage in or agree to sexual activity by inducement, threat or deception
Section 36	Engaging in sexual activity in the presence, procured by inducement, threat or deception, or a person with a mental disorder
Section 37	Causing a person with a mental disorder to watch a sexual act by inducement, threat or deception
Section 38	Care workers: sexual activity with a person with a mental disorder
Section 39	Care workers: causing or inciting sexual activity
Section 40	Care workers: sexual activity in the presence of a person with a mental disorder
Section 41	Care workers: causing a person with a mental disorder to watch a sexual act
Section 47	Paying for sexual services of a child

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Sexual Offences Act 2003	
Section 48	Causing or inciting child prostitution or pornography
Section 49	Controlling a child prostitute or a child involved in pornography
Section 50	Arranging or facilitating child prostitution or pornography
Section 52	Causing or inciting prostitution for gain
Section 53	Controlling prostitution for gain
Section 57	Trafficking into the UK for sexual exploitation
Section 58	Trafficking within the UK for sexual exploitation
Section 59	Trafficking out of the UK for sexual exploitation
Section 59A	Replaces Section's 57-59 (7)
Section 61	Administering a substance with intent
Section 62	Committing an offence with intent to commit a sexual offence
Section 63	Trespass with intent to commit a sexual offence
Section 66	Exposure
Section 67	Voyeurism
Section 72	Offences outside the United Kingdom (8)

Sexual Offences (N Ireland) Order 2008	
Article 5	Rape
Article 6	Assault by penetration
Article 7	Sexual assault
Article 8	Causing a person to engage in sexual activity without consent
Article 12	Rape of a child under 13
Article 13	Assault of a child under 13 by penetration
Article 14	Sexual assault of a child under 13

(7) Removed 10 September 2012 - SI 2160 (NI - SR319)

(8) Inserted 10 September 2012 - SI 2160 (NI - SR319)



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Sexual Offences (N Ireland) Order 2008 (continued)	
Article 15	Causing or inciting a child under 13 to engage in sexual activity
Article 16	Sexual activity with a child
Article 17	Causing or inciting a child to engage in sexual activity
Article 18	Engaging in sexual activity in the presence of a child
Article 19	Causing a child to watch a sexual act
Article 21	Arranging or facilitating commission of a sex offence against a child
Article 22	Meeting a child following sexual grooming
Article 23	Abuse of position of trust: sexual activity with a child
Article 24	Abuse of position of trust: causing or inciting a child to engage in sexual activity
Article 25	Abuse of position of trust: sexual activity in the presence of a child
Article 26	Abuse of position of trust: causing a child to watch a sexual act
Article 27	Abuse of position of trust: offences done in England, Wales or Scotland
Article 32	Sexual activity with a child family member
Article 33	Inciting a child family member to engage in sexual activity
Article 37	Paying for sexual services of a child
Article 38	Causing or inciting child prostitution or pornography
Article 39	Controlling a child prostitute or a child involved or pornography
Article 40	Arranging or facilitating prostitution or pornography
Article 43	Sexual activity with a person with a mental disorder or impeding choice
Article 44	Causing or inciting a person with, a mental disorder or impeding choice, to engage in sexual activity



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Sexual Offences (N Ireland) Order 2008 (continued)

Article 45	Engaging in sexual activity in the presence of a person with a mental disorder or impeding choice
Article 46	Causing a person with, a mental disorder or impeding choice to watch a sexual act
Article 47	Inducement, threat or deception to procure sexual activity with a person with a mental disorder
Article 48	Causing a person with a mental disorder to engage in or agree to engage in sexual activity by inducement, threat or deception
Article 49	Engaging in sexual activity in the presence, procured by inducement, threat or deception, of a person with a mental disorder
Article 50	Causing a person with a mental disorder to watch a sexual act by inducement, threat or deception
Article 51	Care workers: sexual activity with a person with a mental disorder
Article 52	Care workers: causing or inciting sexual activity
Article 53	Care workers: sexual activity in the presence of a person with a mental disorder
Article 54	Care workers: Causing a person with a mental disorder to watch a sexual act
Article 62	Causing or inciting prostitution for gain
Article 63	Controlling prostitution for gain
Article 65	Administering a substance with intent
Article 66	Committing an offence with the intent to commit a sexual offence
Article 67	Trespass with intent to commit a sexual offence
Article 70	Exposure
Article 71	Voyeurism

Sexual Offences (Scotland) Act 2009 (9)

Section 1	Rape
Section 2	Sexual assault by penetration

(9) Inserted 10 September 2012 - SI 2160 (NI - SR319)



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Sexual Offences (Scotland) Act 2009 (9) (continued)

Section 3	Sexual assault
Section 4	Sexual coercion
Section 5	Coercing a person into being present during a sexual activity
Section 6	Coercing a person into looking at a sexual image
Section 8	Sexual exposure
Section 9	Voyeurism
Section 11	Administering a substance for sexual purposes
Section 18	Rape of a young child
Section 19	Sexual assault on a young child by penetration
Section 20	Sexual assault on a young child
Section 21	Causing a young child to participate in a sexual activity
Section 22	Causing a young child to be present during a sexual activity
Section 23	Causing a young child to look at a sexual image
Section 24	Communicating indecently with a young child etc.
Section 25	Sexual exposure to a young child
Section 26	Voyeurism towards a young child
Section 28	Having intercourse with an older child
Section 29	Engaging in penetrative sexual activity with or towards an older child
Section 30	Engaging in sexual activity with or towards an older child
Section 31	Causing an older child to engage in sexual activity
Section 32	Causing an older child to be present during a sexual activity
Section 33	Causing an older child to look at a sexual image
Section 34	Communicating indecently with an older child etc.
Section 35	Sexual exposure to an older child

(9) Inserted 10 September 2012 - SI 2160 (NI - SR319)



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Sexual Offences (Scotland) Act 2009 (9)

Section 36	Voyeurism towards an older child
Section 42	Sexual abuse of trust
Section 46	Sexual abuse of trust of a mentally disordered person

Theft Act 1968

Section 9	Burglary with intent to Rape
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Theft Act (Northern Ireland) 1969

Section 9	Burglary with intent to Rape
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Vagrancy Act 1898

Section 1	Trading in prostitution
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(9) Inserted 10 September 2012 - SI 2160 (NI - SR319)

