



# The Official Gazette

(EXTRAORDINARY)

**OF GUYANA**

Published by the Authority of the Government

---

**GEORGETOWN, MONDAY 24<sup>TH</sup> MAY, 2010**

---

TABLE OF CONTENTS

PAGE

FIRST SUPPLEMENT

LEGAL SUPPLEMENT

A.	<b>ACTS —</b>	
	Act No. 7 of 2010 – The Sexual Offences Act 2010 ... ..	33
B.	<b>SUBSIDIARY LEGISLATION – NIL</b>	
C.	<b>BILLS — NIL</b>	

---

GEORGETOWN, Demerara – Printed and Published every Saturday and on such Extraordinary Days as may be directed by the Government by Guyana National Printers Limited, 1 Public Road, La Penitence, Greater Georgetown.

**MONDAY 24<sup>TH</sup> MAY, 2010**

**THE OFFICIAL GAZETTE      24<sup>TH</sup> MAY, 2010**  
**LEGAL SUPPLEMENT — A**

---



**GUYANA**

**ACT No. 7 of 2010**

**THE SEXUAL OFFENCES ACT 2010**

I assent,

*Bharrat Jagdeo*  
Bharrat Jagdeo,  
President.

*May 24, 2010*

**ARRANGEMENT OF SECTIONS**

**SECTION**

**PART I**  
**PRELIMINARY**

1. Short title and commencement.
2. Interpretation.

**PART II**  
**OFFENCES**

3. Rape.
4. Sexual Assault.
5. Consent not inferred.
6. Belief in consent.
7. Evidential presumptions about consent.
8. Conclusive presumptions about consent.
9. Non-consent offences.
10. Rape of a child under 16 years.
11. Sexual activity with a child under 16 years.
12. Causing a child under 16 years to watch a sexual act.
13. Meeting a child under 16 years following sexual grooming.
14. Close in age defence: complainant aged 12 to 14.
15. Close in age defence: complainant aged 14 to 16.
16. Sexual activity with a child family member.
17. Family relationships.
18. Sexual activity with a child by abusing a position of trust.
19. Position of trust.
20. Obstructing prosecution.
21. Arranging or facilitating commission of child sex offence.

*Vulnerable adults*

*Sex with adult family member*

22. Sex with adult family member.
23. Obtaining sexual activity with a person with a mental disorder by inducement, threat or deception.
24. Causing a person with a mental disorder to watch a sexual act by inducement, threat or deception.
25. Care worker engaging in, causing or inciting sexual activity with a person with a mental disorder.
26. Care worker causing a person with a mental disorder to watch a sexual act.
27. Interpretation of care worker.

*Other offences*

28. Exposure of genitals.
29. Voyeurism.
30. Interpretation of voyeurism.
31. Intercourse with an animal.

*Preparatory offences*

32. Administering a substance with intent.
33. Committing an offence with intent to commit a sexual offence.
34. Trespass with intent to commit a sexual offence.
35. Offences outside Guyana.

*Conspiracy, attempt, incitement, aiding, etc.*

36. Punishment of attempt to commit etc. offence against this Act.

*Supplementary and general*

37. Marital and other relationships.
38. Abolition of presumption that male under 14 years incapable of sexual intercourse.
39. Charge laid under law in force when offence committed.
40. Divestment of authority over child.

**PART III  
INVESTIGATION**

41. Mandatory record and investigation.
42. Confrontation.

**PART IV  
PROCEDURE AT COURT  
*Procedure in Paper Committals***

43. Paper committals.
44. Sex offences court.

*Exclusion of public from hearing*

45. Exclusion of public in certain cases.
46. Factors to be taken into account.
47. Persons not excluded.
48. Reasons to be stated.
49. Representations before determination.
50. Public and jury excluded.
51. Passing of sentence in public.

*Behaviour and reactions of complainant*

52. Behaviour and reactions of complainant.

*Special measures*

53. Special measures directions.  
54. Further provisions about directions.  
55. Screening witness from accused.  
56. Evidence by audio visual link.  
57. Removal of gowns.  
58. Examination of witness through intermediary.  
59. Use of anatomically correct dolls.  
60. Status of evidence given under special measures direction.

*Presentation of complainant's views and concerns*

61. Opportunity for presentation of complainant's views and concerns.

*Anonymity for the complainant*

62. Anonymity for complainant in press reporting.  
63. Anonymity for the complainant in Court.

**PART V**  
**EVIDENCE**

*Competence of witness and capacity to be sworn*

64. Competence of witness to give evidence.  
65. Determining competence of witness.  
66. Determining whether witness to be sworn.  
67. Reception of unsworn evidence.  
68. Penalty for giving false unsworn evidence.  
69. Corroboration.  
70. Compellability.

***Previous consistent statements***

71. Warning to jury.
72. Recent complaint.
73. Statement of child admissible where no oral testimony.
74. Admissibility of child's statement.
75. Statements in documents that appear to have been prepared for the purposes of criminal proceedings or investigations.
76. No conviction on statement alone.
77. Evidence of sexual activity where complainant under 16 years.
78. Evidence of sexual activity, reputation, inferences.
79. Evidence of sexual activity in general.
80. Previous allegations of sexual offences.

**PART VI**

**BAIL**

81. Factors to be taken into account.
82. Bail for sexual offences.
83. Conditions of bail.
84. Complainant to be notified if accused released on bail.

**PART VII**

**SENTENCING**

85. Orders following conviction.

**PART VIII**

**MEDICAL CARE AND SUPPORT FOR VICTIM**

86. Health worker to report child's sexual abuse.

**PART IX**

**PREVENTION**

87. National Task Force for Prevention of Sexual Offences.
88. Sexual Violence Unit.
89. Data.
90. Public awareness.
91. Education and training.

**PART X**  
**MISCELLANEOUS**

- 92. Rules of court and regulations.
- 93. Laws to be applied.
- 94. Law inconsistent or in conflict with this Act.
- 95. Repeal and savings.

**FIRST SCHEDULE:** Paper Committals for Sexual Offences

**SECOND SCHEDULE:** Part One - Procedure for applying to admit evidence of sexual activity where complainant over 16 years of age.

Part Two - Procedure for applying to admit evidence of sexual activity where complainant under 16 years of age.

**THIRD SCHEDULE:** Laws repealed.

AN ACT to reform and consolidate the laws relating to sexual offences and to provide for related matters.

A.D. 2010 Enacted by the Parliament of Guyana:-

**PART 1**  
**PRELIMINARY**

Short title and commencement.

1. This Act may be cited as the Sexual Offences Act 2010, and shall come into operation on such date as the Minister may, by order, appoint and different dates may be appointed for different provisions.

Interpretation.

2. In this Act -

- (a) "accused" includes a defendant;
- (b) "child" means a person under eighteen years of age;
- (c) "consent" means words or overt actions by a person who is competent to give informed consent indicating a freely given agreement to have sexual intercourse or other sexual contact;
- (d) "HIV" means the Human Immuno-deficiency Virus;
- (e) "image" means a moving or still image and includes an image produced by any means and, where the context permits, a three-dimensional image and references to an image of a person include references to an image of an imaginary person and references to observation (however expressed) are to observation whether direct or by looking at an image;
- (f) "learning disability" means a state of arrested or incomplete development of the mind which includes significant impairment of intelligence and social functioning; dependence on alcohol or drugs is not considered to be a disorder or disability of the mind;
- (g) "mental disorder" means any disorder or disability of the mind, including learning disability;
- (h) "penetration" means any intrusion, however slight and for however short a time, of any part of a person's body or of any object into the vagina or anus of another person, and any contact, however slight, and for however short a time, between the mouth of one person and the genitals or anus of another, including but not limited to sexual intercourse, cunnilingus, fellatio, anal intercourse and female to female genital contact; and



**PART II**  
**OFFENCES**

- Rape.
3. (1) A person ("the accused") commits the offence of rape if -
- (a) the accused -
    - (i) engages in sexual penetration with another person ("the complainant"); or
    - (ii) causes the complainant to engage in sexual penetration with a third person;
  - (b) the complainant does not consent to the penetration; and
  - (c) the accused does not reasonably believe that the complainant consents.
- (2) Sections 7 and 8 (relating to presumptions about consent) apply to an offence under this section.
- (3) A person who commits the offence of rape is liable, on conviction on indictment, to imprisonment for life.
- Sexual assault.
4. (1) A person ("the accused") commits the offence of sexual assault if -
- (a) the accused -
    - (i) touches another person ("the complainant") in a sexual way;
    - (ii) causes the complainant to touch the accused in a sexual way;
    - (iii) causes the complainant to touch a third party in a sexual way; or
    - (iv) otherwise indecently assaults the complainant within the meaning of any other law;
  - (b) the complainant does not consent to the touching or the act which would constitute indecent assault; and
  - (c) the accused does not reasonably believe that the complainant consents.
- (2) Sections 7 and 8 (relating to presumptions as to consent) apply to an offence under this section.
- (3) A person who commits an offence under subsection (1) is liable, on summary conviction, to imprisonment for five years and on conviction on indictment, to imprisonment for ten years.

Consent not  
inferred.

5. Consent and belief in consent cannot be inferred by –
- (a) reason of silence or lack of physical resistance on the part of the complainant; or
  - (b) reason of sexual arousal including orgasm and ejaculation.

Belief in  
consent.

6. (1) Where a defence of belief in consent is raised to the offence of rape or sexual assault, the belief must be objectively reasonable.

(2) Whether a belief is reasonable is to be determined having regard to all the circumstances, including any steps the accused has taken to ascertain whether the complainant or the third person consents.

(3) It is not a defence to a charge of rape that the accused reasonably believed that the complainant consented to the sexual activity that forms the subject matter of the charge, where-

- (a) the belief of the accused arose from the self-induced intoxication or reckless or wilful blindness of the accused; or
- (b) the accused did not take reasonable steps, in the circumstances known to the accused at the time, to ascertain that the complainant was consenting.

Evidential  
presumptions  
about consent.

7. (1) If in any proceedings for an offence under section 3 or 4 it is proved that -

- (a) the accused did the sexual activity;
- (b) any of the circumstances specified in subsection (2) existed; and
- (c) the accused knew that those circumstances existed,

the complainant is to be taken not to have consented to the sexual activity unless *prima facie* evidence is adduced to raise an issue as to whether the complainant consented, and the accused is to be taken not to have reasonably believed that the complainant consented unless *prima facie* evidence is adduced to raise an issue as to whether the accused reasonably believed it.

(2) The circumstances referred to in subsection (1) are that-

- (a) any person was, at the time of the sexual activity or immediately before it began, using violence against the complainant or causing the complainant to fear that immediate violence would be used against the complainant;
- (b) any person was, at the time of the sexual activity or immediately before it began, causing the complainant to fear that violence was being used, or that immediate violence would be used, against another person;

- (c) the complainant was, and the accused was not, unlawfully detained at the time of the sexual activity;
- (d) any person had administered to or caused to be taken by the complainant, without the complainant's consent, a substance which, having regard to when it was administered or taken, was capable of causing or enabling the complainant to be stupefied or overpowered at the time of the sexual activity;
- (e) the presence of more than one person at the time of the sexual activity was used to intimidate the complainant;
- (f) the complainant was asleep or otherwise unconscious at the time of the sexual activity;
- (g) because of the complainant's physical disability, the complainant would not have been able at the time of the sexual activity to communicate to the accused whether the complainant consented;
- (h)
  - (i) the complainant was, at the time of the sexual activity, unable to refuse because of or for a reason related to a mental disorder, and the accused knew or could reasonably have been expected to know this;
  - (ii) for the purposes of this subsection, the complainant was unable to refuse if the complainant lacks the capacity to choose whether to agree to the sexual activity (whether because the complainant lacks sufficient understanding of the nature or reasonably foreseeable consequences of what is being done, or for any other reason), or the complainant is unable to communicate such a choice to the accused;
- (i) the complainant was otherwise incapable of consenting to the sexual activity at the time of the sexual activity;
- (j) agreement was expressed by the words or conduct of a person other than the complainant;
- (k) abuse of a position of power or authority to the extent that the complainant could not resist at the time of the sexual activity;
- (l) the complainant expressed at the time of the sexual activity a lack of agreement to engage in the sexual activity;
- (m) the complainant, having consented to engage in the sexual activity, expressed, by words or conduct at the time of the sexual activity, a lack of agreement to continue to engage in the sexual activity.

(3) In subsection (2)(a) and (b), the reference to the time immediately before the sexual activity began is, in the case of an act which is one of a continuous series of sexual activities, a reference to the time immediately before the first sexual activity began.

Conclusive  
presumptions  
about consent.

8. (1) If in any proceedings for an offence under section 3 or 4 it is proved that the accused did the sexual activity and that any of the circumstances specified in subsection (2) existed, it is to be conclusively presumed that -

- (a) the complainant did not consent to the sexual activity; and
- (b) the accused did not believe that the complainant consented to the sexual activity.

(2) The circumstances referred to in subsection (1) are that -

- (a) the accused deceived the complainant as to the nature or purpose of the sexual activity;
- (b) the accused induced the complainant to consent to the sexual activity by impersonating a person known personally to the complainant.

*Non-consent offences: children and vulnerable adults*

Non-consent  
offences.

9. For offences under sections 10 to 26, unless expressly stated in any of the offences, it is not necessary for the prosecution to prove that the complainant did not consent, and belief in consent (whether reasonable or not) is not a defence.

*Child sex offences*

Rape of a child  
under 16 years.

10. (1) A person ("the accused") commits the offence of rape of a child under sixteen years of age ("the complainant") if the accused -

- (a) engages in sexual penetration with the complainant; or
- (b) causes the complainant to engage in sexual penetration with a third party.

(2) It is irrelevant whether at the time of the penetration the accused believed the complainant to be sixteen years of age or over.

(3) A person who commits an offence under subsection (1) is liable on conviction on indictment to imprisonment for life.

Sexual activity  
with a child  
under 16 years.

11. (1) A person ("the accused") commits the offence of sexual activity with a child under sixteen years of age if the accused -

- (a) engages in a sexual activity (not including sexual penetration) with a child who is under sixteen years of age ("the complainant");
- (b) causes or incites the complainant to engage in a sexual activity with a third party; or
- (c) causes the complainant to perform a sexual act including causing the complainant to masturbate.

(2) It is irrelevant whether at the time of the activity the accused believed the complainant to be sixteen years of age or over.

(3) A person who commits an offence under subsection (1) is liable on summary conviction to imprisonment for five years and on conviction on indictment to imprisonment for ten years.

Causing a child under 16 years to watch a sexual act.

12. (1) A person ("the accused") commits the offence of causing a child to watch a sexual act if the accused causes a person, who is under sixteen years of age ("the complainant"), to watch the accused or a third person engaging in a sexual activity or to look at an image of a person engaging in a sexual activity.

(2) A person who commits an offence under subsection (1) is liable on summary conviction, to a fine of one million dollars and to imprisonment for five years and on conviction on indictment, to imprisonment for ten years.

(3) A person ("the accused") is not guilty of an offence under this section, if the accused acts for the purpose of -

- (a) protecting the complainant from a sexually transmitted infection;
- (b) protecting the physical safety of the complainant;
- (c) preventing the complainant from becoming pregnant; or
- (d) promoting the complainant's emotional well-being by the giving of advice,

and not for the purpose of obtaining sexual gratification or for the purpose of causing or encouraging the activity constituting the offence or the complainant's participation in it.

Meeting a child under 16 years following sexual grooming.

13. (1) A person eighteen years of age or over ("the accused") commits the offence of meeting a child following sexual grooming if -

- (a) having met or communicated with another person ("the complainant") on at least two earlier occasions, the accused -
  - (i) meets the complainant; or
  - (ii) travels with the intention of meeting the complainant in any part of the world;

- (b) at the time, the accused intends to do anything to or in respect of the complainant, during or after the meeting and in any part of the world, which if done will involve the commission by the accused of an offence under this Act; and
- (c) the complainant is under sixteen years of age and the accused does not reasonably believe that the complainant is sixteen years of age or over.

(2) In subsection (1)(a) the reference to the accused having met or communicated with the complainant is a reference to the accused having met the complainant in any part of the world or having communicated with the complainant by any means from, to or in any part of the world.

- (3) A person who commits an offence under this section is liable -
  - (a) on summary conviction, to a fine of one million dollars and to imprisonment for five years;
  - (b) on conviction on indictment, to imprisonment for ten years.

Close in age  
defence:  
complainant age  
12 to 14.

14. Where an accused is charged with an offence under sections 10, 11, 12 or 13 in respect of a complainant who is twelve years of age or over but under fourteen years of age, it is a defence that the complainant consented to the activity that forms the subject-matter of the charge if the accused-

- (a) is less than two years older than the complainant; and
- (b) is not in a position of trust or authority towards the complainant within the meaning of section 19, is not a person with whom the complainant is in a relationship of dependency and is not in a relationship with the complainant that is exploitative of the complainant.

Close in age  
defence:  
complainant age  
14 to 16.

15. Where an accused is charged with an offence under sections 10, 11, 12 or 13 in respect of a complainant who is fourteen years of age or over but under sixteen years of age, it is a defence that the complainant consented to the activity that forms the subject-matter of the charge if the accused -

- (a) is less than four years older than the complainant; and
- (b) is not in a position of trust or authority towards the complainant within the meaning of section 19, is not a person with whom the complainant is in a relationship of dependency and is not in a relationship with the complainant that is exploitative of the complainant.

Sexual activity  
with a child  
family member.

16. (1) A person ("the accused") commits the offence of sexual activity with a child family member ("the complainant") if -

- (a) the accused -
  - (i) engages in sexual activity with the complainant;
  - (ii) causes the complainant to engage in sexual activity with a third party; or
  - (iii) causes the complainant to perform sexual acts including causing the complainant to masturbate;
- (b) the relation of the accused to the complainant is a family relation within section 17 and the accused knew or could reasonably have been expected to know that the relation of the accused to the complainant was a family relation within that section; and
- (c) the complainant is under eighteen years of age.

(2) Where in proceedings for an offence under this section it is proved that the relation of the accused to the complainant was a family relation within section 17, it is to be taken that the accused knew or could reasonably have been expected to know that the relation of the accused to the complainant was a family relation unless *prima facie* evidence is adduced to raise an issue as to whether the accused knew or could reasonably have been expected to know that it was.

(3) A person who commits an offence under this section is liable -

- (a) where the sexual activity included sexual penetration, on conviction on indictment to imprisonment for life;
- (b) in any other case -
  - (i) on summary conviction, to a fine of one million dollars and to imprisonment for five years;
  - (ii) on conviction on indictment, to imprisonment for fourteen years.

(4) A person ("the accused") does not commit an offence under this section if -

- (a) at the time the complainant is eighteen years of age or over and the accused and the complainant are lawfully married; or
- (b) the relationship of the accused to the complainant is not a family relationship within section 17 and immediately before the relationship first became a relationship within section 17, a sexual relationship existed between them,

(5) Subsection (4) (b) does not apply if at the time referred to in that subsection a sexual relationship between the accused and the complainant would have been unlawful.

(6) In proceedings for an offence under this section it is for the accused to prove the matters mentioned in subsection (4)(a) and (b).

Family  
relationships.

17. (1) For the purposes of section 16, the relation of one person ("the accused") to another ("the complainant") is a family relation where –

- (a) one of them is the other's parent, grandparent, brother, sister, half-brother, half-sister, aunt or uncle, or the accused is or has been the complainant's foster parent.
  - (b) the accused and the complainant live or have lived in the same household, or the accused is or has been regularly involved in caring for, training, supervising or being in sole charge of the complainant, and -
    - (i) one of them is or has been the other's step-parent (whether through legal marriage or cohabitation);
    - (ii) the accused and the complainant are cousins;
    - (iii) one of them is or has been the other's stepbrother or stepsister, or
    - (iv) the parent or present or former foster parent of one of them is or has been the other's foster parent;
  - (c) the accused and the complainant live in the same household, and the accused is regularly involved in caring for, training, supervising or being in sole charge of the complainant.
- (2) For the purposes of this section -
- (a) "aunt" means the sister or half-sister of a person's parent, and "uncle" has a corresponding meaning;
  - (b) "cousin" means the child of an aunt or uncle;
  - (c) a person is a child's foster parent if so deemed under any law, deed, agreement, arrangement or court order;
  - (d) "stepbrother" and "stepsister" include the child of any step-parent.

***Abuse of position of trust: sexual activity with a child***

Sexual activity  
with a child by  
abusing a  
position of  
trust.

18. (1) A person ("the accused") commits the offence of sexual activity with a child under eighteen years of age by abusing a position of trust in relation to that child ("the complainant") if -

- (a) the accused –



- (i) engages in sexual activity with the complainant;
  - (ii) causes the complainant to engage in sexual activity with a third party; or
  - (iii) causes the complainant to perform sexual acts including causing the complainant to masturbate;
- (b) the accused is in a position of trust in relation to the complainant by virtue of circumstances within section 19 (1) (a), (b) or (c), and is not in a position of trust by virtue of other circumstances; and
- (c) the accused knows or could reasonably be expected to know of the circumstances by virtue of which the accused is in a position of trust in relation to the complainant.

(2) Where in proceedings for an offence under this section it is proved that the accused was in a position of trust in relation to the complainant by virtue of circumstances within section 19 (1) (a), (b) or (c), and it is not proved that the accused was in a position of trust by virtue of other circumstances, it is to be taken that the accused knew or could reasonably have been expected to know of the circumstances by virtue of which the accused was in such a position of trust unless *prima facie* evidence is adduced to raise an issue as to whether the accused knew or could reasonably have been expected to know of those circumstances.

- (3) A person who commits an offence under this section is liable -
- (a) where the sexual activity included sexual penetration, on conviction on indictment to imprisonment for life;
  - (b) in any other case -
    - (i) on summary conviction, to a fine of one million dollars and to imprisonment for five years;
    - (ii) on conviction on indictment, to imprisonment for ten years.
- (4) A person ("the accused") does not commit an offence under this section if -
- (a) at the time the complainant is sixteen years of age or over and the accused and the complainant are lawfully married; or
  - (b) immediately before the accused entered into a position of trust with the complainant, a sexual relationship existed between them.

(5) Subsection (4) (b) does not apply if at the time referred to in that subsection sexual intercourse between the accused and the complainant would have been unlawful.

(6) In proceedings for an offence under this section it is for the accused to prove the matters mentioned in subsections (4) (a) and (b).

Position of  
trust.

19. (1) For the purposes of sections 14, 15 and 18, the positions of trust in relation to the accused and the complainant include, where -

- (a) the accused looks after persons, including the complainant, detained in an institution by virtue of a Court order or under any law;
  - (b) the accused looks after persons, including the complainant, who are accommodated and cared for in one of the following institutions -
    - (i) a hospital;
    - (ii) an independent clinic;
    - (iii) a care home, residential care home or private hospital; or
    - (iv) a community home, voluntary home, children's home or orphanage;
  - (c) the accused looks after persons who are receiving education at an educational institution (whether in the role of teacher or in another role) and the complainant is receiving, and the accused is not receiving, education at that institution;
  - (d) the accused is the guardian of the complainant;
  - (e) the accused is not appointed to be guardian of the complainant but is the legal or reputed husband or wife of one of the complainant's parents or guardians;
  - (f) the complainant is in vocational training and the accused looks after the complainant on an individual basis; or
  - (g) the accused is a social worker, probation officer, coach, instructor, minister of religion, babysitter, child-minder or has a welfare position in relation to the complainant, and has regular unsupervised contact with the complainant.
- (2) For the purposes of subsection (1) -
- (a) the accused looks after persons under eighteen years of age if the accused is regularly involved in caring for, training, supervising or being in sole charge of such persons;
  - (b) the accused looks after the complainant on an individual basis if -
    - (i) the accused is regularly involved in caring for, training or supervising the complainant; and
    - (ii) in the course of the involvement, the accused regularly has unsupervised contact with the complainant (whether face to face or by any other means).

Obstructing  
prosecution.

20. (1) In proceedings relating to an offence under this Act, a person commits the offence of obstructing the prosecution if that person prevents a child from -

- (a) giving a statement to the police;
- (b) giving evidence in any other way which would be admissible for the paper committal; or
- (c) testifying.

(2) A person who commits an offence under subsection (1) is liable on summary conviction to a fine of one million dollars and to imprisonment for five years.

Arranging or  
facilitating  
commission of  
child sex  
offence.

21. (1) A person ("the accused") commits the offence of arranging or facilitating the commission of a child sex offence if the accused intentionally arranges or facilitates something that the accused intends to do, intends another person to do, or believes that another person will do, in any part of the world, and doing it will involve the commission of an offence under section 10, 11, 12, 13, 16 or 18.

(2) A person ("the accused") does not commit an offence under this section if -

- (a) the accused arranges or facilitates something that the accused believes another person will do, but that the accused does not intend to do or intend another person to do; and
- (b) any offence within subsection (1) would be an offence against a child for whose protection the accused acts.

(3) For the purposes of subsection (2), a person acts for the protection of a child if the person acts for the purpose of -

- (a) protecting the child from sexually transmitted infection;
- (b) protecting the physical safety of the child;
- (c) preventing the child from becoming pregnant; or
- (d) promoting the child's emotional well-being by the giving of advice, or any educational activity,

and not for the purpose of obtaining sexual gratification or for the purpose of causing or encouraging the activity constituting the offence within subsection (1) or the child's participation in it.

(4) A person who commits an offence under this section is liable -

- (a) on summary conviction, to a fine of one million dollars and to imprisonment for five years;
- (b) on conviction on indictment to imprisonment for ten years.

***Vulnerable adults***  
***Sex with adult family member***

Sex with adult family member.

22. (1) A person ("the accused") sixteen years of age or over commits the offence of sex with an adult family member if the accused -

- (a) engages in sexual penetration with another person ("the complainant") who is eighteen years of age or over;
- (b) is related to the complainant as parent, grandparent, child, grandchild, brother, sister, half brother, half sister, uncle, aunt, nephew or niece; and
- (c) knew or could reasonably be expected to have known that the accused was related to the complainant in a manner specified in paragraph (b).

(2) Where in proceedings for an offence under this section it is proved that the accused was related to the complainant in any manner specified in subsection (1) (b), it is to be taken that the accused knew or could reasonably have been expected to know of the relationship between them unless *prima facie* evidence is adduced to raise an issue as to whether the accused knew or could reasonably have been expected to know of the relationship.

(3) A person who commits an offence under this section is liable -

- (a) on summary conviction, to a fine of five hundred thousand dollars and to imprisonment for two years;
- (b) on conviction on indictment, to imprisonment for five years.

***Obtaining sexual activity by inducement, threat, deception***

Obtaining sexual activity with a person with a mental disorder by inducement, threat or deception.

23. (1) A person ("the accused") commits the offence of obtaining sexual activity with a person with a mental disorder by inducement, threat or deception if -

- (a) with the agreement of another person ("the complainant"), the accused -
  - (i) engages in sexual activity with the complainant;
  - (ii) causes or incites the complainant to engage in sexual activity with a third party; or
  - (iii) causes the complainant to perform sexual acts including but not limited to causing the complainant to masturbate;
- (b) the accused obtains the complainant's agreement by means of an inducement offered or given, a threat made or a deception practised by the accused for that purpose; and
- (c) the complainant has a mental disorder and the accused knows or could reasonably be expected to know that the complainant has a mental disorder.

(2) A person who commits an offence under this section, if sexual activity involved sexual penetration is liable, on conviction on indictment, to imprisonment for life.

(3) Unless subsection (2) applies, a person guilty of an offence under this section is liable on summary conviction to a fine of one million dollars and to imprisonment for five years, and on conviction on indictment to imprisonment for fourteen years.

Causing a person with a mental disorder to watch a sexual act by inducement, threat or deception.

24. (1) A person ("the accused") commits the offence of causing a person with a mental disorder to watch a sexual act or to look at an image of a person engaging in a sexual activity if -

- (a) with the agreement of another person ("the complainant"), the accused causes the complainant to watch a third person engage in a sexual activity, or to look at an image of any person engaging in a sexual activity;
- (b) the complainant agrees to watch or look because of an inducement offered or given, a threat made or a deception practised by the accused for the purpose of obtaining that agreement; and
- (c) the complainant has a mental disorder and the accused knows or could reasonably be expected to know that the complainant has a mental disorder.

(2) A person who commits an offence under this section is liable on summary conviction to a fine of one million dollars and to imprisonment for five years and on conviction on indictment to imprisonment for ten years.

(3) A person ("the accused") is not guilty of an offence under this section, if the accused acts for the purpose of -

- (a) protecting the complainant from a sexually transmitted infection;
- (b) protecting the physical safety of the complainant;
- (c) preventing the complainant from becoming pregnant; or
- (d) promoting the complainant's emotional well-being by the giving of advice,

and not for the purpose of obtaining sexual gratification or for the purpose of causing or encouraging the activity constituting the offence or the complainant's participation in it.

*Care workers for persons with a mental disorder*

Care worker engaging in, causing or inciting sexual activity with a person with a mental disorder.

25. (1) A person ("the accused") who is a care worker, commits the offence of a care worker engaging in, causing or inciting sexual activity with a person ("the complainant") if -

- (a) the accused -
  - (i) engages in sexual activity with the complainant;
  - (ii) causes or incites the complainant to engage in sexual activity with a third party; or
  - (iii) causes or incites the complainant to perform sexual acts including but not limited to causing the complainant to masturbate;
- (b) the complainant has a mental disorder and the accused knows or could reasonably be expected to know that the complainant has a mental disorder; and
- (c) the accused is involved in the complainant's care in a way that falls within section 27.

(2) Where in proceedings for an offence under this section it is proved that the complainant had a mental disorder, it is to be taken that the accused knew or could reasonably have been expected to know that the complainant had a mental disorder unless *prima facie* evidence is adduced to raise an issue as to whether the accused knew or could reasonably have been expected to know it.

(3) A person who commits an offence under this section, if the sexual activity involved sexual penetration, is liable, on conviction on indictment, to imprisonment for life.

(4) Unless subsection (3) applies, a person guilty of an offence under this section is liable -

- (a) on summary conviction, to a fine of one million dollars and to imprisonment for five years;
- (b) on conviction on indictment, to imprisonment for ten years.

(5) A person ("the accused") does not commit an offence under this section if -

- (a) at the time the complainant is eighteen years of age or over, and the accused and the complainant are lawfully married; or
- (b) immediately before the accused became involved in the complainant's care in a way that falls within section 27, a sexual relationship existed between the accused and the complainant.

(6) Subsection (5) (b) does not apply if at that time sexual intercourse between the accused and the complainant would have been unlawful.

(7) In proceedings for an offence under this section it is for the accused to prove the matters mentioned in subsection (5) (a) and (b).

Care worker causing a person with a mental disorder to watch a sexual act.

26. (1) A person ("the accused") commits the offence of a care worker causing a person with a mental disorder to watch a sexual act or to look at an image of any person engaging in a sexual activity if -

- (a) for the purpose of obtaining sexual gratification, the accused causes another person ("the complainant"), to watch a third person engaging in a sexual activity or to look at an image of any person engaging in a sexual activity;
- (b) the complainant has a mental disorder and the accused knows or could reasonably be expected to know that the complainant has a mental disorder; and
- (c) the accused is involved in the complainant's care in a way that falls within section 27.

(2) Where in proceedings for an offence under this section it is proved that the complainant had a mental disorder, it is to be taken that the accused knew or could reasonably have been expected to know that the complainant had a mental disorder unless *prima facie* evidence is adduced to raise an issue as to whether the accused knew or could reasonably have been expected to know it.

(3) A person who commits an offence under this section is liable -

- (a) on summary conviction, to a fine of one million dollars and to imprisonment for five years;
- (b) on conviction on indictment, to imprisonment for ten years.

(4) A person ("the accused") does not commit an offence under this section if -

- (a) at the time the complainant is eighteen years of age or over, and the accused and the complainant are lawfully married;
- (b) immediately before the accused became involved in the complainant's care in a way that falls within section 27, a sexual relationship existed between the accused and the complainant; or
- (c) the accused acts for the purpose of -
  - (i) protecting the complainant from a sexually transmitted infection;

- (ii) protecting the physical safety of the complainant;
- (iii) preventing the complainant from becoming pregnant; or
- (iv) promoting the complainant's emotional wellbeing by the giving of advice,

and not for the purpose of obtaining sexual gratification or for the purpose of causing or encouraging the activity constituting the offence or the complainant's participation in it.

(5) Subsection (4)(b) does not apply if at that time sexual intercourse between the accused and the complainant would have been unlawful.

(6) In proceedings for an offence under this section it is for the accused to prove the matters mentioned in subsection (4) (a) and (b).

Interpretation of  
care worker.

27. For the purposes of sections 25 and 26, a person ("the accused") is involved in the care of another person ("the complainant") in a way that falls within this section if any of the following paragraphs apply -

- (a) (i) the complainant is accommodated and cared for in a care home, community home, voluntary home or children's home; and
- (ii) the accused has functions to perform in the home in the course of employment which have brought the accused or are likely to bring the accused into regular face to face contact with the complainant.
- (b) if the complainant is a patient for whom services are provided -
  - (i) by a public health body or an independent medical agency; or
  - (ii) in an independent clinic or an independent hospital,

and the accused has functions to perform for the body or agency or in the clinic or hospital in the course of employment which have brought the accused or are likely to bring the accused into regular face to face contact with the complainant;

- (c) if the accused is, whether or not in the course of employment, a provider of care, assistance or services to the complainant in connection with the complainant's mental disorder, and as such, has had or is likely to have regular face to face contact with the complainant.



*Other offences*

- Exposure of the  
genitals.
28. (1) A person ("the accused") commits the offence of exposure of the  
genitals if the accused -
- (a) intentionally exposes the genitals of the accused; and
  - (b) intends that someone will see the genitals of the accused and be  
caused alarm or distress.
- (2) A person who commits an offence under this section is liable -
- (a) on summary conviction, to a fine of five hundred thousand dollars  
and to imprisonment for two years;
  - (b) on conviction on indictment, to imprisonment for five years.
- Voyeurism.
29. (1) A person ("the accused") commits the offence of voyeurism if -
- (a) for the purpose of obtaining sexual gratification, the accused  
observes another person ("the complainant") doing a private act  
without the express consent of the complainant to being observed  
for sexual gratification;
  - (b) the accused installs equipment, or constructs or adapts a structure  
or part of a structure, with the intention of enabling himself or  
another person to commit an offence under paragraph (a);
  - (c) the accused operates equipment with the intention of enabling  
another person to observe, for the purpose of obtaining sexual  
gratification, a third person ("the complainant") doing a private  
act without the express consent of the complainant to operating  
equipment with that intention; or
  - (d) the accused records another person ("the complainant") doing a  
private act with the intention that the accused or a third person  
will, for the purpose of obtaining sexual gratification, look at an  
image of the complainant doing the act without the express  
consent of the complainant to record the act with that intention.
- (2) A person who commits an offence under this section is liable -
- (a) on summary conviction, to a fine of five hundred thousand dollars  
and to imprisonment for two years;
  - (b) on conviction on indictment, to imprisonment for five years.
- Interpretation of  
voyeurism.
30. (1) For the purposes of section 29, a person is doing a private act if the  
person is in a place which, in the circumstances, would reasonably be expected to  
provide privacy, and -
- (a) the person's genitals, buttocks or breasts are exposed or covered  
only with underwear;

- (b) the person is using a lavatory; or
- (c) the person is doing a sexual act that is not of a kind ordinarily done in public.

(2) In section 29, "structure" includes a tent, vehicle or vessel or other temporary or movable structure.

Intercourse with an animal.

31. (1) A person commits the offence of intercourse with an animal if he, with his penis penetrates the vagina or anus of a living animal, and he knows that, or is reckless as to whether, it is the vagina or anus of a living animal that is penetrated.

(2) A person commits an offence of intercourse with an animal if she causes, or allows, her vagina or anus to be penetrated by the penis of a living animal, and she knows that, or is reckless as to whether, it is the penis of an animal she is being penetrated by.

- (3) A person who commits an offence under this section is liable -
  - (a) on summary conviction, to a fine of one million dollars and to imprisonment for two years;
  - (b) on conviction on indictment, to imprisonment for five years.

#### *Preparatory offences*

Administering a substance with intent.

32. (1) A person ("the accused") commits the offence of administering a substance with intent if the accused administers a substance to, or causes a substance to be taken by, another person ("the complainant") -

- (a) knowing that the complainant does not consent; and
- (b) with the intention of stupefying or overpowering the complainant, so as to enable any person to engage in a sexual activity that involves the complainant.

- (2) A person who commits an offence under this section is liable -
  - (a) on summary conviction, to a fine of one million dollars and to imprisonment for five years;
  - (b) on conviction on indictment, to imprisonment for ten years.

Committing an offence with intent to commit a sexual offence.

33. (1) A person commits the offence of committing an offence with intent to commit a sexual offence if the person commits any offence with the intention of committing a sexual offence under this Act.

(2) A person who commits an offence under this section is liable on conviction on indictment, where the offence is committed by kidnapping or false imprisonment, to imprisonment for life.

(3) Unless subsection (2) applies, a person guilty of an offence under this section is liable -

- (a) on summary conviction, to a fine of one million dollars and to imprisonment for five years;
- (b) on conviction on indictment, to imprisonment for ten years.

Trespass with intent to commit a sexual offence.

34. (1) A person commits an offence of trespass with intent to commit a sexual offence if the person -

- (a) is a trespasser on any premises;
- (b) intends to commit a sexual offence under this Act on the premises; and
- (c) knows that, or is reckless as to whether, the person is a trespasser.

(2) In this section -

- (a) "premises" includes a structure or part of a structure;
- (b) "structure" includes a tent, vehicle or vessel or other temporary or movable structure.

(3) A person who commits an offence under this section is liable -

- (a) on summary conviction, to a fine of one million dollars and to imprisonment for five years;
- (b) on conviction on indictment, to imprisonment for ten years.

Offences outside Guyana.

35. (1) Any conduct or act done by a resident or citizen of Guyana in a country or territory outside Guyana shall be deemed to be a sexual offence under the law of Guyana if the conduct or act -

- (a) constituted an offence under the law in force in that country or territory; and
- (b) would constitute a sexual offence under this Act had it been committed in Guyana.

(2) For the purposes of this section, conduct or an act punishable under the law in force in any country or territory outside Guyana constitutes an offence under that law, however it is described in that law.

(3) The conduct or act referred to in subsection (1) shall be deemed to be an offence under this Act unless the person charged serves on the prosecution a notice, no later than rules of Court shall provide, that the conduct or act alleged does not constitute an offence and his reasons for so stating.