

SEXUAL OFFENCES ACT 1967

1967 CHAPTER 60

Amendment of law relating to homosexual acts in private

1.—(1) Notwithstanding any statutory or common law provision, but subject to the provisions of the next following section a homosexual act in private shall not be an offence provided that the parties consent thereto and have attained the age of twenty-one years.

(2) An act which would otherwise be treated for the purposes of this Act as being done in private shall not be so treated if done—

(a) when more than two persons take part or are present; or

(b) in a lavatory to which the public have or are permitted to have access, whether on payment or otherwise.

(3) A man who is suffering from [severe mental handicap]¹ cannot in law give any consent which, by virtue of subsection (1) of this section, would prevent a homosexual act from being an offence, but a person shall not be convicted, on account of the incapacity of such a man to consent, of an offence consisting of such an act if he proves that he did not know and had no reason to suspect that man to be suffering from [severe mental handicap]¹.

(3A) In subsection (3) of this section “severe mental handicap” means a state of arrested or incomplete development of mind which includes severe impairment of intelligence and social functioning.¹

(4) Section 128 of the Mental Health Act 1959 (prohibition on men on the staff of a hospital, or otherwise having responsibility for mental patients, having sexual intercourse with women patients) shall have effect as if any reference therein to having unlawful sexual intercourse with a woman included a reference to committing buggery or an act of gross indecency with another man.

(5) Subsection (1) of this section shall not prevent an act from being an offence (other than a civil offence) under any provision of the Army Act 1955, the Air Force Act 1955 or the Naval Discipline Act 1957.

¹ Words in brackets substituted and subsection (3A) inserted by Mental Health (Amendment) Act 1982, s. 65(1) and Sch. 3, para. 34.

(6) It is hereby declared that where in any proceedings it is charged that a homosexual act is an offence the prosecutor shall have the burden of proving that the act was done otherwise than in private or otherwise than with the consent of the parties or that any of the parties had not attained the age of twenty-one years.

(7) For the purposes of this section a man shall be treated as doing a homosexual act if, and only if, he commits buggery with another man or commits an act of gross indecency with another man or is a party to the commission by a man of such an act.