

## Disregarding and/or pardoning certain sexual offences committed in Northern Ireland between 1634 and 2008

Amendments tabled by Lord Lexden to the Policing and Crime Bill, currently in the House of Lords, propose to make provision in respect of Northern Ireland to enable persons convicted of or cautioned for certain abolished offences to apply to have a conviction or caution disregarded and, if successful, to receive a pardon for the offence. The provisions would also grant posthumous pardons to those convicted of or cautioned for the same abolished offences.

The principal (but not the only) offences covered by the provisions are buggery and gross indecency. Any person convicted of or cautioned for one of these offences would be eligible to have a conviction or caution disregarded and/or receive a pardon providing that the conduct constituting the offence involved consenting adults aged 16 or over and did not take place in a public lavatory.

The table overleaf shows who would be eligible for a disregard and/or pardon in respect of buggery and gross indecency:

**Buggery** Any person convicted of or cautioned for this offence under any of the provisions listed would be eligible providing the conduct constituting the offence involved consenting adults aged 16 or over and did not take place in a public lavatory. This covers both opposite-sex and male same-sex sexual conduct.

**Gross indecency between men** Any person convicted of or cautioned for this offence would be eligible providing the conduct constituting the offence involved consenting adults aged 16 or over and did not take place in a public lavatory. This covers male same-sex sexual conduct.

The table overleaf also shows who would not be eligible for a disregard and/or pardon in respect of the following offence:

**Unlawful carnal knowledge** Any male convicted of this offence for conduct involving a female aged 16 who consented to the conduct would not be eligible.

Given that those convicted of or cautioned for offences of buggery and gross indecency involving consenting adults aged 16 or over would be eligible for a disregard and/or pardon, this raises the question of whether the Northern Ireland Assembly should make separate provision to provide men convicted of or cautioned for unlawful carnal knowledge of a girl aged 16 (between 1950 and 2008, when the “age of consent” for such acts was 17) with the same possibility of having a conviction or cautioned disregarded and/or pardoned when the conduct in question involved consenting parties.

<p><b>Buggery</b></p>	<p><b>10 Cha.1 Sess.2 c.20 (1634) (An Act for the punishment of the vice of Buggery)</b></p> <p>All opposite-sex and male same-sex acts illegal</p>	<p><b>Section 18 of 10 Geo. 4 c.34 (1829) (An Act for consolidating and amending the Statutes in Ireland relating to Offences against the Person)</b></p> <p>All opposite-sex and male same-sex acts illegal</p>	<p><b>Section 61, Offences against the Person Act 1861</b></p> <p>All opposite-sex and male same-sex acts illegal</p>	<p><b>Homosexual Offences (Northern Ireland) Order 1982</b></p> <p>All opposite-sex acts illegal, male same-sex acts legal in private between two consenting persons over 21</p>	<p><b>Criminal Justice and Public Order Act 1994</b></p> <p>All opposite-sex acts illegal, male same-sex acts legal in private between two consenting persons over 18</p>	<p><b>Sexual Offences (Amendment) Act 2000</b></p> <p>All opposite-sex acts illegal, male same-sex acts legal in private between two consenting persons over 17</p>	<p><b>Article 19, Criminal Justice (Northern Ireland) Order 2003</b></p> <p>Opposite-sex and male same-sex consensual acts legal in private between persons over 17</p>	<p><b>Offence abolished 2008 and sexual activity regulated by Sexual Offences (Northern Ireland) Order 2008</b></p> <p>Opposite-sex and male same-sex consensual acts legal between persons over 16</p>
<p><b>Outrages on decency (gross indecency between men)</b></p>	<p><b>Section 11, Criminal Law Amendment Act 1885</b></p> <p>All male same-sex acts illegal</p>			<p><b>Homosexual Offences (Northern Ireland) Order 1982</b></p> <p>Male same-sex acts legal in private between two consenting persons over 21</p>	<p><b>Criminal Justice and Public Order Act 1994</b></p> <p>Male same-sex acts legal in private between two consenting persons over 18</p>	<p><b>Sexual Offences (Amendment) Act 2000</b></p> <p>Male same-sex acts legal in private between two consenting persons over 17</p>	<p><b>Offence abolished 2003</b></p> <p>Male same-sex consensual acts legal between persons over 17</p>	<p><b>Sexual activity regulated by Sexual Offences (Northern Ireland) Order 2008</b></p> <p>Male same-sex consensual acts legal between persons over 16</p>
<p><b>Defilement of girl (unlawful carnal knowledge)</b></p>	<p><b>Section 5, Criminal Law Amendment Act 1885</b></p> <p>Carnal knowledge of a girl under 16 by a male illegal</p>	<p><b>Children and Young Persons Act (Northern Ireland) 1950</b></p> <p>Carnal knowledge of a girl under 17 by a male illegal</p>						<p><b>Offence abolished 2008 and sexual activity regulated by Sexual Offences (Northern Ireland) Order 2008</b></p> <p>Opposite-sex consensual acts legal between persons over 16</p>