

Statutory Document No. 2024/0064

*Criminal Evidence Act 2019*

CRIMINAL EVIDENCE (CATEGORIES OF OFFENCES) ORDER 2024

Approved by Tynwald: 20 March 2024
Coming into Operation in accordance with article 2

The Department of Home Affairs makes the following Order under section 9(4)(b) of the Criminal Evidence Act 2019.

1 Title

This Order is the Criminal Evidence (Categories of Offences) Order 2024.

2 Commencement

If approved by Tynwald, this Order comes into operation immediately after the coming into operation of Part 2 of the Sexual Offences and Obscene Publications Act 2021¹.

3 Categories of offences

- (1) The categories of offences set out in Parts 1 and 2 of the Schedule are prescribed for the purposes of section 9(4)(b) of the Criminal Evidence Act 2019.
- (2) Two offences are of the same category as each other if they are included in the same Part of the Schedule.

MADE 19 FEBRUARY 2024

J POOLE-WILSON
Minister for Justice and Home Affairs

¹ Tynwald procedure – approval required in accordance with section 9 of the Criminal Evidence Act 2019.

SCHEDULE**PRESCRIBED CATEGORIES OF OFFENCES**

[Article 3]

PART 1**THEFT CATEGORY**

1. An offence under section 2(7) of the Vagrancy Act 1896 (possession of implements with intent to break into a building).
2. An offence under section 2(8) of the Vagrancy Act 1896 (armed with offensive weapon with intent to commit unlawful act).
3. An offence under section 2 of the Larceny Act 1946 (simple larceny).
4. An offence under section 13 of that Act (larceny in dwelling house).
5. An offence under section 14 of that Act (larceny from person).
6. An offence under section 15 of that Act (larceny from ships, docks, etc.).
7. An offence under section 23 of that Act (robbery).
8. An offence under section 25 of that Act (burglary).
9. An offence under section 28 of that Act (being found by night armed or in possession of housebreaking implements) if it was committed with intent to commit an offence of larceny, robbery or burglary.
10. An offence under section 124 of the Road Traffic Act 1963 (penalisation of taking motor vehicle without authority).
11. An offence under section 1 of the Vessels Protection (Isle of Man) Act 1969 (taking, etc., vessel without authority).
12. An offence under section 7 of the Theft Act 1981 (theft).
13. An offence under section 8 of that Act (robbery).
14. An offence under section 9(1)(a) of that Act (burglary) if it was committed with intent to steal anything in the building or part of the building.
15. An offence under section 9(1)(b) of that Act (burglary) if the offence resulted in the theft or attempted theft of anything in the building or part of the building.
16. An offence under section 10 of that Act (aggravated burglary) if the offence was committed with intent to steal, or resulted in the theft or attempted theft of, anything in the building or part of the building.
17. An offence under section 12 of that Act (taking motor vehicle or other conveyance without authority).

18. An offence under section 18 of that Act (dishonestly obtaining certain goods and services).
19. An offence under section 24 of that Act (handling stolen goods).
20. An offence under section 27 of that Act (going equipped for stealing, etc.).
21. An offence of –
 - (a) aiding, abetting, counselling, procuring or inciting the commission of an offence specified in this Part; or
 - (b) attempting to commit an offence so specified.

PART 2

SEXUAL OFFENCES (YOUNG PERSONS) CATEGORY

1. An offence under section 61 of the Criminal Code 1872 (rape, abduction and defilement of women) if it was committed in relation to a person under the age of 16.
2. An offence under section 74 of that Code (sodomy and bestiality) if it was committed in relation to a person under the age of 16.
3. An offence under section 75 of that Code (attempt to commit an infamous crime) if it was committed in relation to a person under the age of 16.
4. An offence under section 4 of the Criminal Code Amendment Act 1886 (procuration) if it was committed in relation to a person under the age of 16.
5. An offence under section 5 of that Act (procuring defilement of women by threats, fraud or administering drugs) if it was committed in relation to a person under the age of 16.
6. An offence under section 6 of that Act (defilement of girl under thirteen years of age).
7. An offence under section 7 of that Act (defilement of girl between thirteen and sixteen years of age and of imbecile).
8. An offence under section 9 of that Act (abduction of girl under eighteen with intent to have carnal knowledge).
9. An offence under section 10 of that Act (unlawful detention with intent to have carnal knowledge) if it was committed in relation to a person under the age of 16.
10. An offence under section 11 of that Act (indecent assault) if it was committed in relation to a person under the age of 16.
11. An offence under section 15 of that Act (outrages on decency) if it was committed in relation to a person under the age of 16.

12. An offence under section 3 of the Punishment of Incest Act 1913 (incest by males) if it was committed in relation to a person under the age of 16.
13. An offence under section 4 of that Act (incest by female of or over sixteen).
14. An offence under section 73 of the Mental Diseases Act 1924 (protection of defectives from acts of sexual immorality, procuration, etc.) if it was committed in relation to a person under the age of 16.
15. An offence under section 2 of the Children and Young Persons Act 1966 (causing or encouraging seduction or prostitution of girl under sixteen).
16. An offence under section 1 of the Sexual Offences Act 1967 (rape) if it was committed in relation to a person under the age of 16.
17. An offence under section 5 of that Act (intercourse with girl under thirteen).
18. An offence under section 6 of that Act (intercourse with girl under sixteen).
19. An offence under section 7 of that Act (intercourse with defective) if it was committed in relation to a person under the age of 16.
20. An offence under section 9 of that Act (incest by a man) if it was committed in relation to a person under the age of 16.
21. An offence under section 10 of that Act (incest by a woman) if it was committed in relation to a person under the age of 16.
22. An offence under section 11 of that Act (buggery) if it was committed in relation to a person under the age of 16.
23. An offence under section 12 of that Act (indecenty between men) if it was committed in relation to a person under the age of 16.
24. An offence under section 13 of that Act (indecent assault on a woman) if it was committed in relation to a person under the age of 16.
25. An offence under section 14 of that Act (indecent assault on a man) if it was committed in relation to a person under the age of 16.
26. An offence under section 15 of that Act (assault with intent to commit buggery) if it was committed in relation to a person under the age of 16.
27. An offence under section 93 of the Mental Health Act 1974 (sexual intercourse with patients) if it was committed in relation to a person under the age of 16.
28. An offence under section 1 of the Criminal Law Act 1981 (indecent conduct towards young child).
29. An offence under section 1 of the Sexual Offences Act 1992 (rape) if it was committed in relation to a person under the age of 16.
30. An offence under section 4 of that Act (intercourse with young person).

31. An offence under section 5 of that Act (sexual act with subnormal person) if it was committed in relation to a person under the age of 16.
32. An offence under section 6 of that Act (sexual act with mental patient) if it was committed in relation to a person under the age of 16.
33. An offence under section 7 of that Act (incest) if it was committed in relation to a person under the age of 16.
34. An offence under section 8 of that Act (incitement to commit incest) if it was committed in relation to a person under the age of 16.
35. An offence under section 9 of that Act (unnatural offences) if it was committed in relation to a person under the age of 16.
36. An offence under section 11 of that Act (assault with intent to commit buggery) if it was committed in relation to a person under the age of 16.
37. An offence under section 13 of that Act (indecent assault) if it was committed in relation to a person under the age of 16.
38. An offence under section 14 of that Act (indecenty with children).
39. An offence under section 18A of that Act (meeting a person under 16 following sexual grooming etc.).
40. An offence under section 19 of that Act (procurement of subnormal person) if it was committed in relation to a person under the age of 16.
41. An offence under section 4 of the Sexual Offences and Obscene Publications Act 2021 (rape) if it was committed in relation to a person under the age of 16.
42. An offence under section 5 of that Act (assault by penetration) if it was committed in relation to a person under the age of 16.
43. An offence under section 6 of that Act (sexual assault) if it was committed in relation to a person under the age of 16.
44. An offence under section 7 of that Act (causing a person to engage in sexual activity without consent) if it was committed in relation to a person under the age of 16.
45. An offence under section 8 of that Act (rape of a child under 13).
46. An offence under section 9 of that Act (assault of a child under 13 by penetration).
47. An offence under section 10 of that Act (sexual assault of a child under 13).
48. An offence under section 11 of that Act (causing or inciting a child under 13 to engage in sexual activity).
49. An offence under section 12 of that Act (sexual activity with a child).
50. An offence under section 13 of that Act (causing or inciting a child to engage in sexual activity).

51. An offence under section 14 of that Act (engaging in sexual activity in the presence of a child).
52. An offence under section 15 of that Act (causing a child to watch or listen to a sexual act).
53. An offence under section 17 of that Act (arranging or facilitating the commission of a child sex offence).
54. An offence under section 18 of that Act (meeting a child following sexual grooming etc.).
55. An offence under section 19 of that Act (sexual communication with a child).
56. An offence under section 28 of that Act (sexual activity with a child family member).
57. An offence under section 29 of that Act (inciting a child family member to engage in sexual activity).
58. An offence under section 34 of that Act (sexual activity with a person with a mental disorder impeding choice) if it was committed in relation to a person under the age of 16.
59. An offence under section 35 of that Act (causing or inciting a person, with a mental disorder impeding choice, to engage in sexual activity) if it was committed in relation to a person under the age of 16.
60. An offence under section 36 of that Act (engaging in sexual activity in the presence of a person with a mental disorder impeding choice) if it was committed in relation to a person under the age of 16.
61. An offence under section 37 of that Act (causing a person, with a mental disorder impeding choice, to watch or listen to a sexual act) if it was committed in relation to a person under the age of 16.
62. An offence under section 38 of that Act (inducement, threat or deception to procure sexual activity with a person with a mental disorder) if it was committed in relation to a person under the age of 16.
63. An offence under section 39 of that Act (causing a person with a mental disorder to engage in or agree to engage in sexual activity by inducement, threat or deception) if it was committed in relation to a person under the age of 16.
64. An offence under section 40 of that Act (engaging in sexual activity in the presence, procured by inducement, threat or deception, of a person with a mental disorder) if it was committed in relation to a person under the age of 16.
65. An offence under section 41 of that Act (causing a person with a mental disorder to watch or listen to a sexual act by inducement, threat or deception) if it was committed in relation to a person under the age of 16.

66. An offence under section 43 of that Act (care workers: sexual activity with a person with a mental disorder) if it was committed in relation to a person under the age of 16.
67. An offence under section 44 of that Act (care workers: causing or inciting sexual activity) if it was committed in relation to a person under the age of 16.
68. An offence under section 45 of that Act (care workers: sexual activity in the presence of a person with a mental disorder) if it was committed in relation to a person under the age of 16.
69. An offence under section 46 of that Act (care workers: causing a person with a mental disorder to watch or listen to a sexual act) if it was committed in relation to a person under the age of 16.
70. An offence under section 49 of that Act (paying for sexual services of a child).
71. An offence under section 50 of that Act (causing or inciting sexual exploitation of a child).
72. An offence under section 51 of that Act (controlling a child in relation to sexual exploitation).
73. An offence under section 52 of that Act (arranging or facilitating sexual exploitation of a child).
74. An offence of —
 - (a) aiding, abetting, counselling, procuring or inciting the commission of an offence specified in this Part; or
 - (b) attempting to commit an offence so specified.

EXPLANATORY NOTE

(This note is not part of the Order)

Section 9(2)(b) of the Criminal Evidence Act 2019 provides that a defendant's propensity to commit offences of the kind with which the defendant is charged may (without limiting any other way of doing so) be established by evidence that the defendant has been convicted of an offence of the same category as the one with which the defendant is charged.

Section 9(4)(b) provides that, for the purposes of section 9(2), two offences are of the same category as each other if they belong to the same category of offences prescribed, for the purposes of section 9, by an order made by the Department.

This Order prescribes the categories of offence as those of theft and sexual offences (young persons). An offence is of the same category as another if both offences are contained in the same Part of the Schedule.