

ภาคผนวก ข

กฎหมายของประเทศอังกฤษ

Sexual Offences (Amendment) Act 1976

Chapter 82

Section 4 Anonymity of complainants in rape etc cases.

(1) Except as authorised by a direction given in pursuance of this section--

- (a) after an allegation that a woman or man has been the victim of a rape offence has been made by the woman or man or by any other person, neither the name nor the address of the woman or man nor a still or moving picture of her or him shall during that person's lifetime--
 - (i) be published in England and Wales in a written publication available to the public; or
 - (ii) be included in a relevant programme for reception in England and Wales,

if that is likely to lead members of the public to identify that person as an alleged victim of such an offence; and

- (b) after a person is accused of a rape offence, no matter likely to lead members of the public to identify a woman or man as the complainant in relation to that accusation shall during that person's lifetime—
 - (i) be published in England and Wales in a written publication available to the public; or
 - (ii) be included in a relevant programme for reception in England and Wales;

but nothing in this subsection prohibits the publication or inclusion in a relevant programme of matter consisting only of a report of criminal proceedings other than

proceedings at, or intended to lead to, or on an appeal arising out of, a trial at which the accused is charged with the offence.

(1A) In subsection (1) above "picture" includes a likeness however produced.

(2) If, before the commencement of a trial at which a person is charged with a rape offence, he or another person against whom the complainant may be expected to give evidence at the trial applies to a judge of the Crown Court for a direction in pursuance of this subsection and satisfies the judge--

(a) that the direction is required for the purpose of inducing persons to come forward who are likely to be needed as witnesses at the trial; and

(b) that the conduct of the applicant's defence at the trial is likely to be substantially prejudiced if the direction is not given,

the judge shall direct that the preceding subsection shall not, by virtue of the accusation alleging the offence aforesaid, apply in relation to the complainant.

(3) If at a trial the judge is satisfied that the effect of subsection (1) of this section is to impose a substantial and unreasonable restriction upon the reporting of proceedings at the trial and that it is in the public interest to remove or relax the restriction, he shall direct that that subsection shall not apply to such matter as is specified in the direction; but a direction shall not be given in pursuance of this subsection by reason only of the outcome of the trial.

(4) If a person who has been convicted of an offence and given notice of appeal to the Court of Appeal against the conviction, or notice of an application for leave so to appeal, applies to the Court of Appeal for a direction in pursuance of this subsection and satisfies the Court--

(a) that the direction is required for the purpose of obtaining evidence in support of the appeal; and

(b) that the applicant is likely to suffer substantial injustice if the direction is not given,

the Court shall direct that subsection (1) of this section shall not, by virtue of an accusation which alleges a rape offence and is specified in the direction, apply in relation to a complainant so specified.

(5) If any matter is published or included in a relevant programme in contravention of subsection (1) of this section, the following persons, namely--

- (a) in the case of a publication in a newspaper or periodical, any proprietor, any editor and any publisher of the newspaper or periodical;
- (b) in the case of any other publication, the person who publishes it; and
- (c) in the case of matter included in a relevant programme, any body corporate which is engaged in providing the service in which the programme is included and any person having functions in relation to the programme corresponding to those of an editor of a newspaper,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(5A) Where a person is charged with an offence under subsection (5) of this section in respect of the publication of any matter or the inclusion of any matter in a relevant programme, it shall be a defence, subject to subsection (5B) below, to prove that the publication or programme in which the matter appeared was one in respect of which the woman or man had given written consent to the appearance of matter of that description.

(5B) Written consent is not a defence if it is proved that any person interfered unreasonably with the peace or comfort of the woman or man with intent to obtain the consent.

(6) For the purposes of this section a person is accused of a rape offence if--

- (a) an information is laid alleging that he has committed a rape offence; or
- (b) he appears before a court charged with a rape offence; or
- (c) a court before which he is appearing commits him for trial on a new charge alleging a rape offence; or

(d) a bill of indictment charging him with a rape offence is preferred before a court in which he may lawfully be indicted for the offence, and references in this section and section 7(5) of this Act to an accusation alleging a rape offence shall be construed accordingly; and in this section--

"complainant", in relation to a person accused of a rape offence or an accusation alleging a rape offence, means the woman or man against whom the offence is alleged to have been committed; and

"relevant programme" means a programme included in a programme service (within the meaning of the Broadcasting Act 1990);

"written publication" includes a film, a sound track and any other record in permanent form but does not include an indictment or other document prepared for use in particular legal proceedings.

(6A) For the purposes of this section, where it is alleged or there is an accusation that an offence of incitement to rape or conspiracy to rape has been committed, the person who is alleged to have been the intended victim of the rape shall be regarded as the alleged victim of the incitement or conspiracy or, in the case of an accusation, as the complainant.

(7) Nothing in this section--

(b) affects any prohibition or restriction imposed by virtue of any other enactment upon a publication or upon matter included in a relevant programme;

and a direction in pursuance of this section does not affect the operation of subsection (1) of this section at any time before the direction is given.