

Voyeurism (Offences) (No. 2) Bill Factsheet

Introduction

1. Upskirting is a highly intrusive practice, which typically involves individuals taking a picture under another person's clothing without them knowing, with the intention of viewing their genitals or buttocks. Although instances of upskirting have not gone unpunished in England and Wales, a review of the law found that not all instances of upskirting are necessarily covered by the existing criminal law.
2. Initially, the government supported legislation to create specific offences in relation to upskirting brought forward in a private members bill (PMB) tabled by Wera Hobhouse MP. However, when the bill's progress was delayed in Parliament, the Prime Minister committed to legislate for this behaviour through a Government Bill to ensure the provisions could be on the statute as soon as possible.

What is the current position?

3. Currently, this behaviour can be successfully prosecuted under the outraging public decency offence (OPD). Examples of successful prosecutions for upskirting under this offence include someone who was convicted for taking photos up women's skirts on trains and on a beach, and a student who was convicted for taking photos up women's skirts in Oxford. In certain circumstances, upskirting may also be captured by the offence of voyeurism, under the Sexual Offences Act 2003 and, in the case of a child, the offence of taking an indecent photograph of a child, under the Protection of Children Act 1978.
4. However, as noted, we have listened to concerns that the existing criminal law may not capture all instances of upskirting. For example, the OPD offence requires at least two people to have witnessed the act or be capable of witnessing it, so an instance of upskirting in an otherwise empty train carriage may not be captured. Additionally, the existing law did not make upskirting a sexual offence and so the most serious offenders were not made subject to notification requirements (commonly known as the sex offenders register).

What are the proposed changes?

5. This Bill will insert two new offences into the Sexual Offences Act 2003 for instances where, without consent, a person operates equipment or records an image under another person's clothing with the intention of viewing, or enabling another person to view, their genitals or buttocks (with or without underwear).
6. The offences would apply where the offender had a motive of either a) obtaining sexual gratification, or b) causing humiliation, distress or alarm to the victim. The bill would also ensure that the most serious sexual offenders (where the purpose of the offending is for sexual gratification) are made subject to notification requirements.

Territorial extent

7. The provisions in the Bill will extend and apply to England and Wales only.

Commencement

8. The Act will come into force two months after the Act receives Royal Assent.