**Guyana**

ECPAT International has developed [a legal checklist](https://ecpat.org/wp-content/uploads/2021/09/SECTT-Checklist_ENG-1.pdf) for governments providing guidance for legal interventions and measures to adopt in order to improve their national legal frameworks. This will help to effectively address the crime of sexual exploitation of children in travel and tourism, including its online elements.

The legal checklist was developed based on the recommendations of the first [Global Study](https://ecpat.org/wp-content/uploads/2021/08/Global-Report-Offenders-on-the-Move.pdf) on sexual exploitation of children in the context of travel and tourism. Following the development of this legal checklist, ECPAT International conducted country legal analysis for Guyana and other countries in the Americas, Southeast Asia, as well as Africa and Asia.

The country analysis serves as a baseline to indicate and track the implementation status of the legal interventions within and across the four regions. It provides governments with clear directions for improving their actions with respect to child protection against sexual exploitation in the context of travel and tourism, including its online elements.

The table below allows easy assessment of existing legislation against the 24 measures of the legal checklist. It will be updated as the laws and policies change. An [explanatory note](https://ecpat.org/wp-content/uploads/2021/08/SECTT-Checklist_ENG_Explanatory-note.pdf) and an [assessment matrix](https://ecpat.org/wp-content/uploads/2021/09/Assesment-Matrix_2021SEP_ENG_v2.pdf) can be consulted for further reference.

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|  | **Recommendations** | **Implemented** | **Legislation** |
|  | Establish by law **extra-territorial jurisdiction**, within the parameters of Article 4 OPSC, for all offences of sexual exploitation of children, including those occurring in the online environment. | Partially | Article 35 of the Sexual Offences Act establishes that a person, resident or citizen of Guyana, who commits an offence, penalised by the Act, outside of Guyana will be penalised under this Act, if the conduct constituted an offence under the law in force in that country or territory.No provisions related to passive extraterritoriality are mentioned. Article 27 of the Cybercrime Bill establishes that Guyana will have jurisdiction when the offence is carried out:* wholly or partly in Guyana;
* by a citizen of Guyana, whether in Guyana or elsewhere; or
* by a person on board a vessel or aircraft registered in Guyana.

No provisions related to passive extraterritoriality are mentioned. |
|  | Include in extradition treaties the sexual exploitation of children as **extraditable offences** and apply when appropriate the rules of article 5 OPSC, regardless the nationality of the (alleged) offender. | Yes | The Fugitive Offenders Act defines the applicable law in Guyana regarding extradition.In Guyana, a person is extraditable when accused of an offence punishable with death or imprisonment for life or for a term not less than two years under the law of Guyana and of the Common- wealth country or treaty territory (article 5).In Guyana, all the criminal offences related to the sexual exploitation of children are punishable with not less than two years of prison. |
|  | Do NOT require the principle of **double criminality** for proceeding with extraterritorial jurisdiction or extradition for sexual offences against children. | No | The principle of double criminality applies in cases of extra-territorial jurisdiction for sexual offences against children, as indicated by Article 35 of the Sexual Offences Act (mentioned in point no.1).The principle of double criminality applies in cases of extradition (article 5 of the Fugitive Offenders Act). |
|  | Abolish **statutory limitations** for the prosecution of ALL offences of sexual exploitation of children. | Yes | No provisions on statutory limitations have been found in the Guyana Criminal Law. |
|  | Set up **conditions for any travel** by persons convicted of sexual exploitation of children. | Yes | The Combating of Trafficking in Person Act excludes from the territory persons implicated in trafficking of persons revoking their visa and not delivering any entrance or transit visa (article 34).Article 3 of the Immigration Act prohibits the entry of immigrants who have been convicted in any country for any crime. |
|  | Ensure **consistency in the definition of a ‘child’** as anyone under the age of 18 for all crimes of sexual exploitation, regardless of the age of sexual consent. | Yes | The Protection of Children Act defines a ‘child’ as a person under the age of eighteen years (article 2). The Sexual Offences Act defines a ‘child’ as a person under eighteen years old (article 2).The Combating of Trafficking in Person Act defines a ‘child’ as a person under eighteen years old (article 2).The Cybercrime Bill defines a ‘child’ as a person under eighteen years old (article 2).The Combating of Trafficking in Person Act criminalises trafficking for the purposes of exploitation of children in prostitution (article 5).Article 14 of the Cybercrime Bill criminalises the possession, production, offering, procuring of child sexual exploitation materials through a computer system.Article 15 of the Cybercrime Bill criminalises the solicitation of children for sexual purposes using a computer.The Protection of Children Act, article 50, criminalises a person who employs a child in an establishment to engage in acts of prostitution. |
|  | Ensure that the **age of sexual consent** for both males and females is 18 and a close in age exemption (up to 3 years) is provided for consensual sexual relationships between adolescents in order to allow voluntary, well-informed and mutual sexual contact between close in age peers and to prevent criminalization of young people in willing sexual relationships. |  Partially | Article 14 of the Sexual Offences Act establishes that when a person is accused of the rape of a child under 16 years old (article 10), having sexual activity with a child under 16 years old (article 11), causing a child under 16 years old to watch sexual acts(article 12) or meeting a child under 16 years old following sexual grooming (article 13), and in case the victim is 12 or over but under 14 years old then, it is a defence that the complainant consented to the activity that forms the subject-matter of the charge, if the accused:* is less than two years older than the complainant; and
* is not in a position of trust or authority towards the complainant, is not a person with whom the complainant is in a relationship of dependency and is not in a relationship with the complainant that is exploitative of the complainant.

Article 15 of the Sexual Offences Act establishes the same in the case the victim is 14 or over but under 16 years old and the accused is less than four years older than the complainant. |
|  | Have a law or regulation establishing a **mechanism for centrally registering sex offenders** that has been implemented/setup. | No  | In 2018, the Child Care and Protection Agency (CCPA) announced its willingness to establish a child abuser and sexual offenders’ registry. However, no information has been found on the implementation of this registry. |
|  | Establish **bail conditions** that prohibit individual accused of sexual offences against children from traveling outside of the country. | Partially | Article 83 of the Sexual Offences Act establishes the right to bail for a person charged under the Act and the conditions of the bail, including the obligation for the accused to report at such times as are specified at a specified police station, to remain within a territorial jurisdiction specified in the order, and if holder of a passport, to deposit it.Furthermore, article 82 of the Sexual Offences Act establishes that a person charged with committing grooming (article 13) will not benefit from bail unless the accused shows just cause why the detention of the accused in custody is not justified. According to the article, just cause will be shown when the accused demonstrate that:1. *detention is not necessary to ensure the attendance of the accused in Court in order to be dealt with according to law;*
2. *detention is not necessary for the protection or safety of the public, including for the protection of any complainant of or witness to the offence;*
3. *there is not a substantial likelihood that the accused will, if released from custody, commit a criminal offence or interfere with the administration of justice; and*
4. *detention is not necessary to maintain confidence in the administration of justice, having regard to all the circumstances, including:*

*(i) the apparent strength of the prosecution's case;**(ii) the gravity of the offence;**(iii) the circumstances surrounding the commission of the offence, including whether a weapon was used; and**iv) the fact that the accused is liable, on conviction, for a potentially lengthy term of imprisonment.*In addition, for a person charged under other laws, the Criminal Procedure authorizes the magistrate to entitled the accused person to be admitted to bail. The magistrate shall decide any measures to ensure the presence of the accused (articles 82 to 90). |
|  | Provide in law that the **mere attempt** to commit a crime of sexual exploitation of children is criminalised. | Partially | Article 36 of the Sexual Offences Act penalises those who attempt to commit any offence punishable by the Act as the person were the principal offender. |
|  | Impose more severe sentences for **reoffending** in case of sexual exploitation against children, e.g. by defining reoffending as an aggravating circumstance, regardless of whether the crimes were perpetrated abroad or in-country. | No | No information has been found. |
|  | Provide for **mandatory reporting** for particular professions that have likelihood to have contact with kids who might disclose. | Partially | Article 86 of the Sexual Offences Act establishes an obligation for health workers to report child sexual abuse cases. |
|  | Establish obligatory government-regulated child protection standards for the tourism industry for example, attach responsibility to an appropriate regulatory authority and/or implement industry specific **national codes for child protection** as a legal requirement for the travel and tourism industry to operate. | No | Guyana just started the process to develop a national code for child protection for the tourism industry. |
|  | Ensure the **liability of travel and tourism businesses** (in operations and supply chains) for criminal conduct including:* Organising travel arrangements or transportation that are explicitly or implicitly meant to create or facilitate opportunities to engage (involve) children in sexual activities;
* Procuring, aiding or abetting the exploitative sexual conduct with a child;
* Advertising or promoting sexual exploitation of children;
* Benefitting, by any means, from any form of sexual exploitation of a child (or children) in the context of their travel and tourism business.
 | No | Although there are no specific provisions to ensure the responsibility of the private travel and tourism sector, there are some provisions that may provide some protection to child victims of sexual exploitation.Article 21 of the Sexual Offences Act establishes that: “*A person ("the accused") commits the offence of arranging or facilitating the commission of a child sex offence if the accused intentionally arranges or facilitates something that the accused intends to do, intends another person to do, or believes that another person will do, in any part of the world, and doing it will involve the commission of an offence under section 10, 11, 12, 13, 16 or 18*.” The person will be charged, on summary conviction, to a fine of one million dollars and to imprisonment for five years and on conviction on indictment to imprisonment for ten years.The Combating of Trafficking in Person Act establishes that companies or individuals which knowingly transports victims of trafficking, shall be liable for costs associated with providing accommodation and meals for the victim and any accompanying dependent children for the duration of the victim's stay in facilities and shall bear the costs of their transportation to a port of entry of the country of which the victim is a citizen or in which the victim holds a normal place of residence in Guyana (article 27). |
|  | Criminalise the **grooming of children for sexual purposes** (often called ‘solicitation’ in law) including through Internet and other communication technologies to facilitate either online or offline sexual exploitation. | Partially | Article 15 of the Cybercrime Bill criminalises the solicitation of children for sexual purposes using a computer on summary conviction to a fine of three million dollars and to imprisonment for five years; or on conviction on indictment to a fine of eight million dollars and to imprisonment for five years.Article 13 of the Sexual Offences Act criminalizes anyone over 18 years old who meets a child under 16 years old following sexual grooming following those requirements:* *having met or communicated on at least two earlier occasions, the accused: (i) meets the complainant; or(ii) travels with the intention of meeting the complainant in any part of the world;*
* *at the time, the accused intends to do anything to or in respect of the complainant, during or after the meeting and in any part of the world, which if done will involve the commission by the accused of an offence under this Act; and*
* *the complainant is under sixteen years of age and the accused does not reasonably believe that the complainant is sixteen years of age or over.*

The perpetrator will face: on summary conviction, a fine of one million dollars and to imprisonment for five years; on conviction on indictment, imprisonment for ten years. |
|  | Establish legislation requiring for a **criminal background check** for every person (national or non-national) applying for work with or for children or who is currently working with or for children. Introduce legislation prohibiting convicted sex offenders to hold positions involving or facilitating contact with children. | Partially | Article 56 of the Protection of Children Act establishes that when a child care organisation offers an employment in a child care position, the organisation must verify if the individual is included in the list of individuals who are considered unsuitable to work with children upon receipt of confirmation of that person’s conviction for an offence under the Act or for an offence against a child (Article 53-55). |
|  | Regulate and monitor the use of volunteers (including in **‘voluntourism’**) in settings and activities that involve direct contact with children, particularly prohibiting visits to orphanages/residential care settings in favour of redirecting the industry towards solutions that support community-based care. | No  |  |
|  | Ratify and implement relevant **regional and international instruments** related to child’s rights and sexual exploitation of children. | No | * Convention on the Rights of the Child (CRC) Ratified in 1991
* Optional Protocol to the CRC on the Sale of Children, Child Prostitution and Child Pornography Ratified in 2010
* Optional Protocol to the CRC on a Communications Procedure (OP3 CRC) - Not signed
* Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children - Not signed
* ILO Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour No.182 - Ratified in 2001
* Council of Europe Convention on Cybercrime (Budapest Convention) - Not signed

UNWTO Framework Convention on Tourism Ethics - Not ratified |
|  | Establish **protection measures** for child victims at any stage of the legal process against the suspected offender. | Yes | Article 53 of the Sexual Offences Act establishes that the complainant should be protected at any stage of the legal proceedings.The law does not make explicit difference between national and non-national child victims, but it does not even clearly state if relevant provisions would be applied to non-nationals.The Protection of Children Act provides measures to protect the child victims during the proceedings.The law applies to nationals and non-nationals child victims (article 2). |
|  | Establish **child-friendly interviewing practices by professionally trained police.**  | Partially | The Protection of Children Act, article 9, allows, as a protection intervention, a child to be interviewed by a social worker at the place the child is located.The law applies to nationals and non-nationals child victims (article 2).The Combating of Trafficking in Person Act ensures that the testimony of a child victim is conducted outside court setting or by video (article 25).The law applies to nationals and non-nationals child victims (article 2). |
|  | Ensure that national legislation provides the **right for child victims to receive support in their recovery and rehabilitation**, including accessing re-integration services. | No | The Combating of Trafficking in Person Act provides support for the victims of trafficking such as psychological counsel, medical assistance, employment, educational, and training opportunities and access to social benefits.No tailored support and re-integration services are offered to child victims of SEC related crimes. |
|  | Establish a **national reporting mechanism (e.g. hotline)** that coordinates access to services, and helps to overcome reluctance to report sexual exploitation of children. | Yes | In Guyana, a 24 hour Hotline exists to report cases of child abuse (227-0970). |
|  | Create **data retention and** preservation laws, regulations and procedures, to ensure the retention and preservation of digital evidence and enable cooperation with law enforcement which applies to ISPs, mobile phone companies, digital social media and communication companies, cloud storage companies, based in/operating in national jurisdiction. | Yes | Article 25 of the Cybercrime Bill requires the service provider to store traffic data of subscribers for ninety days from the date on which the data is generated by a computer system. A service provider who fails to comply commits an offence and is liable on summary conviction to a fine of three million dollars and to imprisonment for one year.The Cybercrime Bill defines “service providers” as: “*(a) any public or private entity that provides to users of its service the ability to communicate by means of a computer system; or (b) any public or private entity that processes or stores computer data on behalf of such communication service or users of such service*” (article 2). The Cybercrime Bill defines “computer system” as: “*(a) means a device or group of interconnected or related devices, which follows a computer programme or external instruction to perform automatic processing of computer data; and (b) includes, but is not limited to, a desktop computer, a laptop computer, a netbook computer, a tablet computer, a video game console, a smart phone, a personal digital assistant, or a smart television*” (article 2). |
|  | Ensure that national legislation provides the **right for all child victims of sexual exploitation to seek compensation** in national courts from convicted perpetrators who harmed them and/or through state-managed funds.  |  Yes | Article 6 of the Combating of Trafficking in Person Act requires the perpetrator to pay a compensation to the victim.The law applies to nationals and non-nationals child victims (article 2).The Cybercrime Bill, article 39, requires the perpetrator to pay a compensation resulting from the loss and damages to the victim.The law does not make explicit difference between national and non-national child victims, but it does not even clearly state if relevant provisions would be applied to non-nationals.The Sexual Offences Act requires the perpetrator to pay a compensation to the victim (article 85).The law does not make explicit difference between national and non-national child victims, but it does not even clearly state if relevant provisions would be applied to non-nationals |

**Legal Sources:**

Combating of Trafficking in Persons Act :<http://parliament.gov.gy/documents/acts/4653-act_no._2_of_2005.pdf>

Protection of Children Act :<https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/99466/123441/F1386003620/GUY99466%202012.pdf>

Constitution :<http://parliament.gov.gy/constitution.pdf>

The Sexual Offence Act 2010 :<https://oig.cepal.org/sites/default/files/2010_guy_act7.pdf>

Criminal Law (Offence) Act :<https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/72106/73070/F-965231282/GUY72106%202012.pdf>

Criminal Law (Procedure) Act :<https://www.oas.org/juridico/spanish/mesicic2_guy_criminal_proc_act.pdf>

Cybercrime Bill 2016: <https://ndma.gov.gy/wp-content/uploads/2018/09/GoG-CybercrimeBill2016_No.17-of-2016.pdf>

Fugitive Offender Act: <http://parliament.gov.gy/documents/acts/8547-act_15_of_1988_fugitive_offenders.pdf>

Fugitive Offender (Amended): Act:<http://www.oas.org/juridico/english/mesicic3_guy_fugitive_2009.pdf>

Immigration Act: <https://caribbeanmigration.org/sites/default/files/repository/guy_immigration_act_2.pdf>