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STATUTORY INSTRUMENTS

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**2008 No. 1779**

**The Sexual Offences (Northern Ireland  
Consequential Amendments) Order 2008**

**PART 2**

**SEXUAL OFFENCES ACT 2003**

**Amendment of the Sexual Offences Act 2003**

**3.** The Sexual Offences Act 2003(1) is amended in accordance with the following provisions of this Part.

**Section 15 (meeting a child following sexual grooming etc.)**

- 4.—**(1) Section 15 is amended as follows.
- (2) Omit subsection (2)(b)(ii).
  - (3) In subsection (2)(b)(iii) omit “and Northern Ireland” and “or (ii)”.
  - (4) Omit subsection (3).

**Section 20 (abuse of position of trust: acts done in Scotland)**

- 5.—**(1) Section 20 is amended as follows.
- (2) Omit “or Northern Ireland”.
  - (3) After “in Scotland” insert “or Northern Ireland”.

**Section 21 (positions of trust)**

- 6.—**(1) Section 21 is amended as follows.
- (2) In subsection (3)—
    - (a) in paragraph (a) omit “or Article 27(2) of the Children (Northern Ireland) Order 1995 (S.I.1995/755 (N.I. 2))”, and
    - (b) in paragraph (b) omit “or Article 75(1) of that Order”.
  - (3) In subsection (4)—
    - (a) in paragraph (c) omit “residential care home or private hospital”,
    - (b) at the end of paragraph (d) insert “or”,
    - (c) omit the word “or” at the end of paragraph (e), and

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(1) 2003 c. 42. Sections 15 and 72 were amended by the Criminal Justice and Immigration Act 2008 (c. 4). Section 142(2) was amended by paragraph 3 of Schedule 4 to the Violent Crime Reduction Act 2006 (c. 38). In Schedule 5, paragraph 171 was amended by the Sexual Offences Act 2003 (Amendment of Schedules 3 and 5) Order 2007 (S.I. 2007/296) and paragraph 171A was inserted by paragraph 59(3) of Schedule 10 to the Domestic Violence, Crime and Victims Act 2004 (c. 28).

- (d) omit paragraph (f).
- (4) Omit subsection (6).
- (5) In subsection (8) omit paragraph (b) and the word “or” at the end of paragraph (a).
- (6) In subsection (9) omit “or under Article 4 of the Children (Northern Ireland) Order 1995”.
- (7) In subsection (10) omit paragraph (b) and the word “or” at the end of paragraph (a).
- (8) In subsection (12)(c) omit “or Article 60(1) of the Children (Northern Ireland) Order 1995”.

**Section 22 (positions of trust: interpretation)**

- 7. In section 22(5) omit the following provisions—
  - (a) paragraph (b) of the definition of “authority”;
  - (b) paragraph (b) of the definition of “care order”, and the word “and” at the end of paragraph (a);
  - (c) paragraph (b) of the definition of “children’s home”, and the word “and” at the end of paragraph (a);
  - (d) paragraph (b) of the definition of “education supervision order”, and the word “and” at the end of paragraph (a);
  - (e) paragraph (b) of the definition of “hospital”;
  - (f) paragraph (b) of the definition of “independent clinic”;
  - (g) the definitions of “private hospital”, “residential care home” and “residential family centre”;
  - (h) paragraph (b) of the definition of “supervision order”, and the word “and” at the end of paragraph (a);
  - (i) paragraph (b) of the definition of “voluntary home”, and the word “and” at the end of paragraph (a).

**Section 47 (paying for sexual services of a child)**

- 8. Omit section 47(7) (modification for Northern Ireland).

**Section 60 (trafficking offences under sections 57 to 59: interpretation and jurisdiction)**

- 9. In section 60(1), after paragraph (b) insert—
  - “(ba) an offence under any provision of the Sexual Offences (Northern Ireland) Order 2008.”.

**Section 72 (offences outside the United Kingdom)**

- 10.—(1) Section 72 is amended as follows.
- (2) In subsection (1)—
  - (a) omit “or Northern Ireland”, and
  - (b) for “that part of the United Kingdom” substitute “England and Wales”.
- (3) In subsection (2)—
  - (a) omit “or Northern Ireland”, and
  - (b) for “that part of the United Kingdom” substitute “England and Wales”.
- (4) In subsection (3)—

- (a) omit “or Northern Ireland”, and
- (b) for “that part of the United Kingdom” substitute “England and Wales”.

**Section 142 (extent, saving etc.)**

- 11.** In section 142(2) (provisions which extend to Northern Ireland)—
- (a) for paragraph (a) substitute—  
“**(a)** sections 46 and 57 to 60C,”, and
  - (b) omit paragraph (b).

**Schedule 2 (sexual offences to which section 72 applies)**

- 12.** In Schedule 2 omit—
- (a) paragraph 2, and
  - (b) in paragraph 3 the words “or 2(1)”.

**Schedule 3 (sexual offences for the purposes of Part 2)**

- 13.** In Schedule 3, after paragraph 92 insert—
- 92A.** An offence under Article 5 or 6 of the Sexual Offences (Northern Ireland) Order 2008 (rape, assault by penetration).
- 92B.** An offence under Article 7 of that Order (sexual assault) if—
- (a) where the offender was under 18, he is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months;
  - (b) in any other case—
    - (i) the victim was under 18, or
    - (ii) the offender, in respect of the offence or finding, is or has been—
      - (aa) sentenced to a term of imprisonment,
      - (bb) detained in a hospital, or
      - (cc) made the subject of a community sentence of at least 12 months.
- 92C.** An offence under Article 8, 12 or 13 of that Order (causing sexual activity without consent, rape of a child under 13, assault of a child under 13 by penetration).
- 92D.** An offence under Article 14 of that Order (sexual assault of a child under 13) if the offender—
- (a) was 18 or over, or
  - (b) is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months.
- 92E.** An offence under any of Articles 15 to 19 of that Order (causing or inciting a child under 13 to engage in sexual activity, sexual offences against children committed by adults).
- 92F.** An offence under Article 20 of that Order (sexual offences against children committed by children or young persons), if the offender is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months.
- 92G.** An offence under Article 21 of that Order (arranging or facilitating the commission of a sexual offence against a child) if the offender—

- (a) was 18 or over, or
- (b) is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months.

**92H.** An offence under Article 22 of that Order (meeting a child following sexual grooming etc).

**92I.** An offence under any of Articles 23 to 26 of that Order (abuse of a position of trust) if the offender, in respect of the offence, is or has been—

- (a) sentenced to a term of imprisonment,
- (b) detained in a hospital, or
- (c) made the subject of a community sentence of at least 12 months.

**92J.** An offence under Article 32 or 33 of that Order (familial sexual offences against children) if the offender—

- (a) was 18 or over, or
- (b) is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months.

**92K.** An offence under Article 37 (paying for sexual services of a child) if the victim or (as the case may be) other party was under 16, and the offender—

- (a) was 18 or over, or
- (b) is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months.

**92L.** An offence under Article 38 (causing or inciting child prostitution or pornography) if the offender—

- (a) was 18 or over, or
- (b) is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months.

**92M.** An offence under Article 39 (controlling a child prostitute or a child involved in pornography) if the offender—

- (a) was 18 or over, or
- (b) is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months.

**92N.** An offence under Article 40 (arranging or facilitating child prostitution or pornography) if the offender—

- (a) was 18 or over, or
- (b) is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months.

**92O.** An offence under any of Articles 43 to 50 of that Order (offences against persons with a mental disorder impeding choice, inducements etc. to persons with mental disorder).

**92P.** An offence under any of Articles 51 to 54 of that Order (care workers for persons with mental disorder) if—

- (a) where the offender was under 18, he is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months;
- (b) in any other case, the offender, in respect of the offence or finding, is or has been—
  - (i) sentenced to a term of imprisonment,

- (ii) detained in a hospital, or
- (iii) made the subject of a community sentence of at least 12 months.

**92Q.** An offence under Article 65 of that Order (administering a substance with intent).

**92R.** An offence under Article 66 or 67 of that Order (committing an offence or trespassing, with intent to commit a sexual offence) if—

- (a) where the offender was under 18, he is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months;
- (b) in any other case—
  - (i) the intended offence was an offence against a person under 18, or
  - (ii) the offender, in respect of the offence or finding, is or has been—
    - (aa) sentenced to a term of imprisonment,
    - (bb) detained in a hospital, or
    - (cc) made the subject of a community sentence of at least 12 months.

**92S.** An offence under Article 68 or 69 of that Order (sex with an adult relative) if—

- (a) where the offender was under 18, he is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months;
- (b) in any other case, the offender, in respect of the offence or finding, is or has been—
  - (i) sentenced to a term of imprisonment, or
  - (ii) detained in a hospital.

**92T.** An offence under Article 70 of that Order (exposure) if—

- (a) where the offender was under 18, he is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months;
- (b) in any other case—
  - (i) the victim was under 18, or
  - (ii) the offender, in respect of the offence or finding, is or has been—
    - (aa) sentenced to a term of imprisonment,
    - (bb) detained in a hospital, or
    - (cc) made the subject of a community sentence of at least 12 months.

**92U.** An offence under Article 71 of that Order (voyeurism) if—

- (a) where the offender was under 18, he is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months;
- (b) in any other case—
  - (i) the victim was under 18, or
  - (ii) the offender, in respect of the offence or finding, is or has been—
    - (aa) sentenced to a term of imprisonment,
    - (bb) detained in a hospital, or
    - (cc) made the subject of a community sentence of at least 12 months.

**92V.** An offence under Article 73 or 74 of that Order (intercourse with an animal, penetration of a corpse) if—

- (a) where the offender was under 18, he is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months;
- (b) in any other case, the offender, in respect of the offence or finding, is or has been—
  - (i) sentenced to a term of imprisonment, or
  - (ii) detained in a hospital.”

**Schedule 5 (other offences for the purposes of Part 2)**

**14.** In Schedule 5 (other offences for the purposes of Part 2)—

- (a) in paragraph 171 omit the words “51 to 53 or”; and
- (b) after paragraph 171A insert—

“**171B.** An offence under Article 62 (causing or inciting prostitution for gain) or 63 (controlling prostitution for gain) of the Sexual Offences (Northern Ireland) Order 2008.”

**Schedule 6 (minor and consequential amendments)**

**15.** In Schedule 6 (minor and consequential amendments) omit paragraphs 18(2), 39 and 46(5) (a).