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STATUTORY INSTRUMENTS

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**2008 No. 1769**

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

**PART 7**

**SUPPLEMENTARY AND GENERAL**

**Offences outside the United Kingdom**

76.—(1) If—

- (a) a United Kingdom national does an act in a country outside the United Kingdom, and
- (b) the act, if done in Northern Ireland, would constitute a sexual offence to which this [F1paragraph] applies,

that United Kingdom national is guilty in Northern Ireland of that sexual offence.

(2) If—

- (a) a United Kingdom [F2resident] does an act in a country outside the United Kingdom, and
- (b) the act constitutes an offence under the law in force in that country, and
- (c) the act, if done in Northern Ireland, would constitute a sexual offence to which this [F3paragraph] applies,

that United Kingdom [F2resident] is guilty in Northern Ireland of that sexual offence.

(3) If—

- (a) a person does an act in a country outside the United Kingdom at a time when that person was not a United Kingdom national [F4or a United Kingdom resident], and
- (b) the act constituted an offence under the law in force in that country,
- (c) the act, if done in Northern Ireland, would have constituted a sexual offence to which this [F5paragraph] applies, and
- (d) the person meets the residence or nationality condition at the relevant time,

proceedings may be brought against the person in Northern Ireland for that sexual offence as if that person had done the act in Northern Ireland.

(4) The person meets the residence or nationality condition at the relevant time if the person is a United Kingdom national or a United Kingdom resident at the time when the proceedings are brought.

(5) An act punishable under the law in force in any country constitutes an offence under that law for the purposes of paragraphs (2) and (3), however it is described in that law.

(6) The condition in paragraph (2)(b) or (3)(b) is to be taken to be met unless, not later than rules of court may provide, the defendant serves on the prosecution a notice—

- (a) stating that, on the facts as alleged with respect to the act in question, the condition is not in the defendant's opinion met,

- (b) showing the grounds for that opinion, and
- (c) requiring the prosecution to prove that it is met.

(7) But the court, if it thinks fit, may permit the defendant to require the prosecution to prove that the condition is met without service of a notice under paragraph (6).

(8) In the Crown Court the question whether the condition is met is to be decided by the judge alone.

(9) In this Article—

“country” includes “territory”;

“rules of court” means—

- (i) in relation to proceedings in a magistrates' court, magistrates' court rules;
- (ii) in relation to proceedings in the Crown Court, Crown Court rules;

“United Kingdom national” means an individual who is—

- (i) a British citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen;
- (ii) a person who under the British Nationality Act 1981 is a British subject; or
- (iii) a British protected person within the meaning of that Act;

“United Kingdom resident” means an individual who is resident in the United Kingdom.

(10) The sexual offences to which [<sup>F6</sup>paragraphs (1), (2) and (3) apply] are—

- (a) an offence under any provision of Part 3 (sexual offences against children) <sup>F7</sup> ...;
- (b) an offence under any provision of Part 2 or 4 where the victim of the offence was under 18 at the time of the offence;
- (c) an offence under Article 65 where the victim of the offence was under 18 at the time of the offence;
- (d) an offence under Article 66 or 67 where the intended offence was an offence against a person under 18;
- (e) an offence under—
  - (i) Article 3(1)(a) of the Protection of Children (Northern Ireland) Order 1978 (NI 17) (indecent photographs of children), or
  - (ii) Article 15 of the Criminal Justice (Evidence Etc.) (Northern Ireland) Order 1988 (NI 17) (possession of indecent photograph of child).

[<sup>F8</sup>(10A) Paragraphs (1) and (2) also apply to an offence under any provision of Part 2 where the victim of the offence was 18 or over at the time of the offence.]

(11) A reference in paragraph (10) [<sup>F9</sup>or (10A)] to an offence includes—

- (a) a reference to an attempt or conspiracy to commit that offence; and
- (b) a reference to aiding and abetting, counselling or procuring the commission of that offence.

(12) A reference in paragraph (10) [<sup>F10</sup>or (10A)] to an offence (“offence A”) includes a reference to an offence under Part 2 of the Serious Crime Act 2007 (c. 27) in relation to which offence A is the offence (or one of the offences) which the person intended or believed would be committed.

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#### Textual Amendments

- F1** Word in [art. 76\(1\)\(b\)](#) substituted (21.2.2022) by [Domestic Abuse Act 2021 \(c. 17\), s. 90\(6\), Sch. 3 para. 8\(a\)](#); [S.R. 2022/52, art. 2\(c\)](#)

- F2** Word in art. 76(2) substituted (5.7.2011) by Justice Act (Northern Ireland) 2011 (c. 24), ss. 110(1), 111(2)(c), **Sch. 7 para. 15(2)(a)** (with s. 106(4))
- F3** Word in art. 76(2)(c) substituted (21.2.2022) by Domestic Abuse Act 2021 (c. 17), s. 90(6), **Sch. 3 para. 8(a)**; S.R. 2022/52, art. 2(c)
- F4** Words in art. 76(3)(a) inserted (5.7.2011) by Justice Act (Northern Ireland) 2011 (c. 24), ss. 110(1), 111(2)(c), **Sch. 7 para. 15(2)(b)** (with s. 106(4))
- F5** Word in art. 76(3)(c) substituted (21.2.2022) by Domestic Abuse Act 2021 (c. 17), s. 90(6), **Sch. 3 para. 8(b)**; S.R. 2022/52, art. 2(c)
- F6** Words in art. 76(10) substituted (21.2.2022) by Domestic Abuse Act 2021 (c. 17), s. 90(6), **Sch. 3 para. 8(c)**; S.R. 2022/52, art. 2(c)
- F7** Words in art. 76(10)(a) omitted (27.11.2023) by virtue of Justice (Sexual Offences and Trafficking Victims) Act (Northern Ireland) 2022 (c. 19), s. 30(2), **Sch. 2 para. 7**; S.R. 2023/188, art. 3(b)
- F8** Art. 76(10A) inserted (21.2.2022) by Domestic Abuse Act 2021 (c. 17), s. 90(6), **Sch. 3 para. 8(d)**; S.R. 2022/52, art. 2(c)
- F9** Words in art. 76(11) inserted (21.2.2022) by Domestic Abuse Act 2021 (c. 17), s. 90(6), **Sch. 3 para. 8(e)**; S.R. 2022/52, art. 2(c)
- F10** Words in art. 76(12) inserted (21.2.2022) by Domestic Abuse Act 2021 (c. 17), s. 90(6), **Sch. 3 para. 8(e)**; S.R. 2022/52, art. 2(c)

**Changes to legislation:**

There are currently no known outstanding effects for the The Sexual Offences (Northern Ireland) Order 2008, Section 76.