

SEXUAL OFFENCES (NORTHERN IRELAND) ORDER 2008

S.I. 2008 No. 1769 (N.I. 2)

EXPLANATORY MEMORANDUM

7.

POLICY BACKGROUND

The Provisions

Part 7 – Supplementary and general

Article 77: Exceptions to aiding, abetting or counselling

- 7.151. *Article 77* provides that, in certain defined circumstances, a person is not guilty of aiding, abetting or counselling a sexual offence under Articles 12 to 14 (offences against children under 13), Article 16 (sexual activity with a child), Article 20 (where the offence would be an offence under Article 16 if the offender were over 18) and Articles 23, 32, 43, 47 and 51 (where the victim is a child under 16). The exception applies where the person is acting for the purpose of protecting a child from pregnancy or sexually transmitted infection, for the purpose of protecting the physical safety of a child, or for the purpose of promoting a child's emotional well-being. In this last case, however, the exception only applies where the person provides advice.
- 7.152. In all cases, the person must not be causing or encouraging the commission of an offence or a child's participation in it. Nor must the person be acting for the purpose of obtaining sexual gratification. So a person who was providing advice to a child under 16 about sexual health or contraception, in order to protect the child from becoming pregnant would not fall within the exception if he was at the same time meaning to encourage the child to have sex or was giving that advice in order to get sexual gratification for himself.