

# SEXUAL OFFENCES (NORTHERN IRELAND) ORDER 2008

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

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## EXPLANATORY MEMORANDUM

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### POLICY BACKGROUND

#### *The Provisions*

#### **Part 5 – Prostitution**

##### *Article 58: Interpretation of this Part*

7.122. This Article defines terms used Articles 59 to 61. *Paragraph (2)* applies the Article 41(2) definition of “prostitute” or “prostitution” to the offences. *Paragraphs (3) and (4) define “payment” and “gain”* as any financial advantage, including the discharge of a debt or obligation to pay, or the provision of goods or services (including sexual services) for free, or at a discount. The reference to “sexual services” would, for example, cover someone who controls the activities of a number of women in prostitution, where the gain or payment he derives from them is their engaging in sexual intercourse with him. *Paragraph (4)* also covers the goodwill of any person likely to bring such a financial advantage. For example, this would cover A inciting B to work as a prostitute for C, where A expects this will lead to C providing him (A) with cheap drugs at a later date. *Paragraph (5)* provides that conduct is persistent if it takes place on two or more occasions in any period of three months. *Paragraph (6)* defines “motor vehicle” and *paragraph (7)* defines “street” for the purposes of the offence as any bridge, road, lane, footway, subway, square, court, alley or passage whether thoroughfare or not, which is open to the public.

##### *Article 59: Loitering or soliciting for purposes of prostitution*

7.123. **Article 59** makes it an offence for a person persistently to loiter or solicit in a street or public place for the purpose of prostitution.

##### *Article 60: Kerb-crawling*

7.124. **Article 60** makes it an offence for a person A to solicit another person B (or different persons) for the purpose of prostitution from a motor vehicle while it is in a street or public place; or in a street or public place while in the immediate vicinity of a motor vehicle that he has just got out of or off. The soliciting must be persistent or in such a manner or in such circumstances as to be likely to cause annoyance to the person B (or other persons) solicited, or nuisance to other persons in the neighbourhood.

7.125. *Paragraph (3)* provides that soliciting another person for the purposes of prostitution is a reference to A soliciting that other person B to provide services as a prostitute to A.

***Article 61: Persistent soliciting***

- 7.126. **Article 61** makes it an offence for a person A if in a street or public place to persistently solicit another person B (or different persons) for the purpose of prostitution. *Paragraph (3)* provides that soliciting another person for the purposes of prostitution is a reference to A soliciting that other person B to provide services as a prostitute to A.

**Exploitation of prostitution**

***Article 62: Causing or inciting prostitution for gain***

- 7.127. **Article 62** makes it an offence for a person (A) intentionally to cause or incite a person (B) into prostitution anywhere in the world where A does so for or in expectation of gain for himself or for a third party. Although this offence is not specifically limited to where B is aged 18 or over, it is aimed at cases where B is an adult, as the offence at Article 38 specifically covers cases where B is under 18. Although prostitution by adults aged 18 or over is not an offence in itself, this offence is intended to cover those who, for gain, recruit others into prostitution, whether this be by the exercise of force or otherwise.

***Article 63: Controlling prostitution for gain***

- 7.128. **Article 63** makes it an offence for a person (A) intentionally to control another person's activities relating to prostitution, in any part of the world, where A does so for, or in the expectation of, gain for himself or a third party. This offence covers the same behaviour as Article 39, but is limited to prostitution. Although this offence is not specifically limited to cases where the person controlled is aged 18 or over, it is aimed at those cases, as the offence at Article 39 specifically covers cases where the person controlled is under 18.

***Article 64: Keeping a brothel used for prostitution***

- 7.129. **Article 64** makes it an offence to keep a brothel used for prostitution. The new offence is triable either way with a maximum penalty on indictment of 7 years imprisonment.