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## STATUTORY INSTRUMENTS

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### 2008 No. 1769

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

### PART 6

#### MISCELLANEOUS SEXUAL OFFENCES

##### *Other offences*

##### **Exposure**

- 70.**—(1) A person commits an offence if—
- (a) he intentionally exposes his genitals, and
  - (b) he intends that someone will see them and be caused alarm or distress.
- (2) A person guilty of an offence under this Article is liable—
- (a) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum or both;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years.

##### **Voyeurism**

- 71.**—(1) A person commits an offence if—
- (a) for the purpose of obtaining sexual gratification, he observes another person doing a private act, and
  - (b) he knows that the other person does not consent to being observed for his sexual gratification.
- (2) A person commits an offence if—
- (a) he operates equipment with the intention of enabling another person to observe, for the purpose of obtaining sexual gratification, a third person (B) doing a private act, and
  - (b) he knows that B does not consent to his operating equipment with that intention.
- (3) A person commits an offence if—
- (a) he records another person (B) doing a private act, and
  - (b) he does so with the intention that he or a third person will, for the purpose of obtaining sexual gratification, look at an image of B doing the act, and
  - (c) he knows that B does not consent to his recording the act with that intention.
- (4) A person commits an offence if he installs equipment, or constructs or adapts a structure or part of a structure, with the intention of enabling himself or another person to commit an offence under paragraph (1).
- (5) A person guilty of an offence under this Article is liable—

- (a) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum or both;
- (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years.

**[<sup>F1</sup>Voyeurism: additional offences (genitals and buttocks)]**

**71A.**—(1) A person (A) commits an offence if—

- (a) A operates equipment beneath the clothing of another person (B),
- (b) A does so with the intention of enabling A or another person (C) to observe—
  - (i) B's genitals or buttocks (whether exposed or covered with underwear), or
  - (ii) the underwear covering B's genitals or buttocks,
 in circumstances where the genitals, buttocks or underwear would not otherwise be visible, and
- (c) either condition 1 or condition 2 is met.

(2) Condition 1 is that—

- (a) A operates the equipment with the intention of enabling the observation for the purpose of—
  - (i) obtaining sexual gratification (whether for A or C), or
  - (ii) humiliating, alarming or distressing B, and
- (b) A does so—
  - (i) without B's consent, and
  - (ii) without reasonably believing that B consents.

(3) Condition 2 is that—

- (a) A operates the equipment with the intention of enabling the observation—
  - (i) without B's consent, and
  - (ii) without reasonably believing that B consents,
- (b) in so operating the equipment, A is reckless as to whether B is humiliated, alarmed or distressed, and
- (c) B is humiliated, alarmed or distressed.

(4) A person (A) commits an offence if—

- (a) A records an image beneath the clothing of another person (B),
- (b) the image is of—
  - (i) B's genitals or buttocks (whether exposed or covered with underwear), or
  - (ii) the underwear covering B's genitals or buttocks,
 in circumstances where the genitals, buttocks or underwear would not otherwise be visible, and
- (c) either condition 3 or condition 4 is met.

(5) Condition 3 is that—

- (a) A records the image with the intention that A or another person (C) will look at it for the purpose of—
  - (i) obtaining sexual gratification (whether for A or C), or
  - (ii) humiliating, alarming or distressing B, and

- (b) A does so—
  - (i) without B's consent, and
  - (ii) without reasonably believing that B consents.
- (6) Condition 4 is that—
  - (a) A records the image with the intention that A or another person will look at it,
  - (b) A does so—
    - (i) without B's consent, and
    - (ii) without reasonably believing that B consents,
  - (c) in so recording the image, A is reckless as to whether B is humiliated, alarmed or distressed, and
  - (d) B is humiliated, alarmed or distressed.
- (7) Paragraph (8) applies where—
  - (a) B consents to the operation of equipment, or the recording of an image, for a particular purpose, and
  - (b) A operates the equipment, or records the image, for a different or additional purpose.
- (8) Where this paragraph applies, then for the purposes of paragraph (3)(a) or paragraph (6)(b) (as the case may be)—
  - (a) B is to be taken as having not consented to the operation of the equipment or the recording of the image, and
  - (b) A is to be taken as having had a reasonable belief as to B's consent only if A had a reasonable belief that B consented to the operation of the equipment, or the recording of the image, for the other purpose.
- (9) A person guilty of an offence under this Article is liable—
  - (a) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum or both;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years.

#### Textual Amendments

**F1** Arts. 71A, 71B inserted (27.11.2023) by [Justice \(Sexual Offences and Trafficking Victims\) Act \(Northern Ireland\) 2022 \(c. 19\)](#), [ss. 1\(2\), 30\(2\)](#); S.R. 2023/188, art. 3(a)

#### Voyeurism: additional offences (breasts)

- 71B.**—(1) A person (A) commits an offence if—
- (a) A operates equipment beneath or above the clothing of another person (B),
  - (b) A does so with the intention of enabling A or another person (C) to observe—
    - (i) B's breasts (whether exposed or covered with underwear), or
    - (ii) the underwear covering B's breasts,in circumstances where the breasts or underwear would not otherwise be visible, and
  - (c) either condition 1 or condition 2 is met.
- (2) Condition 1 is that—

- (a) A operates the equipment with the intention of enabling the observation for the purpose of—
  - (i) obtaining sexual gratification (whether for A or C), or
  - (ii) humiliating, alarming or distressing B, and
- (b) A does so—
  - (i) without B's consent, and
  - (ii) without reasonably believing that B consents.
- (3) Condition 2 is that—
  - (a) A operates the equipment with the intention of enabling the observation—
    - (i) without B's consent, and
    - (ii) without reasonably believing that B consents,
  - (b) in so operating the equipment, A is reckless as to whether B is humiliated, alarmed or distressed, and
  - (c) B is humiliated, alarmed or distressed.
- (4) A person (A) commits an offence if—
  - (a) A records an image beneath or above the clothing of another person (B),
  - (b) the image is of—
    - (i) B's breasts (whether exposed or covered with underwear), or
    - (ii) the underwear covering B's breasts,
  - in circumstances where the breasts or underwear would not otherwise be visible, and
  - (c) either condition 3 or condition 4 is met.
- (5) Condition 3 is that—
  - (a) A records the image with the intention that A or another person (C) will look at it for the purpose of—
    - (i) obtaining sexual gratification (whether for A or C), or
    - (ii) humiliating, alarming or distressing B, and
  - (b) A does so—
    - (i) without B's consent, and
    - (ii) without reasonably believing that B consents.
- (6) Condition 4 is that—
  - (a) A records the image with the intention that A or another person will look at it,
  - (b) A does so—
    - (i) without B's consent, and
    - (ii) without reasonably believing that B consents,
  - (c) in so recording the image, A is reckless as to whether B is humiliated, alarmed or distressed, and
  - (d) B is humiliated, alarmed or distressed.
- (7) Paragraph (8) applies where—
  - (a) B consents to the operation of equipment, or the recording of an image, for a particular purpose, and
  - (b) A operates the equipment, or records the image, for a different or additional purpose.

(8) Where this paragraph applies, then for the purposes of paragraph (3)(a) or paragraph (6)(b) (as the case may be)—

- (a) B is to be taken as having not consented to the operation of the equipment or the recording of the image, and
- (b) A is to be taken as having had a reasonable belief as to B's consent only if A had a reasonable belief that B consented to the operation of the equipment, or the recording of the image, for the other purpose.

(9) A person guilty of an offence under this Article is liable—

- (a) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum or both;
- (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years.]

#### Textual Amendments

**F1** Arts. 71A, 71B inserted (27.11.2023) by *Justice (Sexual Offences and Trafficking Victims) Act (Northern Ireland) 2022* (c. 19), ss. 1(2), 30(2); S.R. 2023/188, art. 3(a)

#### Voyeurism: interpretation

**72.**—(1) For the purposes of Article 71 a person is doing a private act if the person is in a place which, in the circumstances, would reasonably be expected to provide privacy, and—

- (a) the person's genitals, buttocks or breasts are exposed or covered only with underwear,
- (b) the person is using a lavatory, or
- (c) the person is doing a sexual act that is not of a kind ordinarily done in public.

[<sup>F2</sup>(1A) For the purposes of Articles 71, 71A and 71B operating equipment includes (in the case of equipment that is capable of activation) enabling or securing its activation by another person without that person's knowledge.]

(2) In Article 71, “structure” includes a tent, vehicle or vessel or other temporary or movable structure.

#### Textual Amendments

**F2** Art. 72(1A) inserted (27.11.2023) by *Justice (Sexual Offences and Trafficking Victims) Act (Northern Ireland) 2022* (c. 19), ss. 1(3), 30(2); S.R. 2023/188, art. 3(a)

#### [<sup>F3</sup>Sending etc an unwanted sexual image

**72A.**—(1) A person (A) commits an offence if—

- (a) A intentionally sends or gives to another person (B) a sexual image,
- (b) A does so—
  - (i) without B's consent, and
  - (ii) without reasonably believing that B consents, and
- (c) either condition 1 or condition 2 is met.

(2) Condition 1 is that A intends that B will look at the image and that doing so will cause humiliation, alarm or distress to B.

- (3) Condition 2 is that—
- (a) A's purpose in sending or giving the image is to obtain sexual gratification, and
  - (b) A is reckless as to whether B is humiliated, alarmed or distressed.
- (4) For the purposes of this Article, a sexual image is a photograph or film of—
- (a) any person engaging in a sexual activity, or
  - (b) any person's genitals.
- (5) In paragraph (4)—
- “photograph” includes the negative as well as the positive version;
  - “film” means a moving image.
- (6) References to a photograph or film also include—
- (a) an image, whether made by computer graphics or in any other way, which appears to be a photograph or film,
  - (b) a copy of a photograph, film or image within sub-paragraph (a), and
  - (c) data stored by any means which is capable of conversion into a photograph, film or image within sub-paragraph (a).
- (7) References to sending or giving such a photograph or film to another person include, in particular—
- (a) sending it to another person by any means, electronically or otherwise,
  - (b) showing it to another person, and
  - (c) placing it for a particular person to find.
- (8) A person guilty of an offence under this Article is liable—
- (a) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum or both;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years.]

#### Textual Amendments

- F3** [Art. 72A](#) inserted (27.11.2023) by [Justice \(Sexual Offences and Trafficking Victims\) Act \(Northern Ireland\) 2022 \(c. 19\)](#), [ss. 2, 30\(2\)](#); [S.R. 2023/188](#), [art. 3\(a\)](#)

#### Intercourse with an animal

- 73.—**(1) A person commits an offence if—
- (a) he intentionally performs an act of penetration with his penis,
  - (b) what is penetrated is the vagina or anus of a living animal, and
  - (c) he knows that, or is reckless as to whether, that is what is penetrated.
- (2) A person (A) commits an offence if—
- (a) he intentionally causes, or allows, A's vagina or anus to be penetrated,
  - (b) the penetration is by the penis of a living animal, and
  - (c) A knows that, or is reckless as to whether, that is what A is being penetrated by.
- (3) A person guilty of an offence under this Article is liable—
- (a) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum or both;

- (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years.

### **Sexual penetration of a corpse**

**74.**—(1) A person commits an offence if—

- (a) he intentionally performs an act of penetration with [<sup>F4</sup>a part of his body or anything else],
- (b) what is penetrated is a part of the body of a dead person, and
- (c) he knows that, or is reckless as to whether, that is what is penetrated, and
- (d) the penetration is sexual.

(2) A person guilty of an offence under this Article is liable—

- (a) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum or both;
- (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years.

#### **Textual Amendments**

**F4** Words in [art. 74\(1\)\(a\)](#) substituted (5.7.2011) by [Justice Act \(Northern Ireland\) 2011 \(c. 24\)](#), ss. 110(1), 111(2)(c), [Sch. 7 para. 15\(1\)](#) (with [s. 106\(4\)](#))

### **Sexual activity in a public lavatory**

**75.**—(1) A person commits an offence if—

- (a) he is in a lavatory to which the public or a section of the public has or is permitted to have access, whether on payment or otherwise,
- (b) he intentionally engages in an activity, and
- (c) the activity is sexual.

(2) For the purposes of this Article, an activity is sexual if a reasonable person would, in all the circumstances but regardless of any person's purpose, consider it to be sexual.

(3) A person guilty of an offence under this Article is liable on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding level 5 on the standard scale or both.

**Changes to legislation:**

There are currently no known outstanding effects for the The Sexual Offences (Northern Ireland) Order 2008, Cross Heading: Other offences.