

Draft Order laid before Parliament under section 138(2) of the Sexual Offences Act 2003, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2007 No.

**CRIMINAL LAW, ENGLAND AND WALES
CRIMINAL LAW, NORTHERN IRELAND**

The Sexual Offences Act 2003
(Amendment of Schedules 3 and 5) Order 2007

Made - - - - 2007

Coming into force in accordance with article 1

The Secretary of State, in exercise of the powers conferred by section 130 of the Sexual Offences Act 2003(1), makes the following Order;

In accordance with section 138(2) of that Act, a draft of this instrument was laid before Parliament and approved by a resolution of each House of Parliament:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Sexual Offences Act 2003 (Amendment of Schedules 3 and 5) Order 2007 and shall come into force after the expiry of 14 days beginning with the day on which it is made.

(2) In this Order “the Act” means the Sexual Offences Act 2003.

Amendment of Schedule 3 to the Sexual Offences Act 2003

2.—(1) Schedule 3 to the Act is amended as follows.

(2) After paragraph 29 insert—

“**29A** An offence under section 48 of this Act (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.

29B An offence under section 49 of this Act (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.

29C An offence under section 50 of this Act (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.”.

(3) After paragraph 89 insert –

89A An offence under section 48 of this Act (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.

89B An offence under section 49 of this Act (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.

89C An offence under section 50 of this Act (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.”.

Amendment of Schedule 5 to the Sexual Offences Act 2003

3.—(1) Schedule 5 to the Act is amended as follows.

(2) After paragraph 4 insert—

4A Outraging public decency.”.

(3) After paragraph 31 insert—

31A An offence under section 1 of the Theft Act 1968 (c.60) (theft).”.

(4) In paragraph 32, for “the Theft Act 1968 (c.60)” substitute “that Act”.

(5) For paragraph 33 substitute—

“An offence under section 9(1)(a) of that Act (burglary with intent to steal, inflict grievous bodily harm or do unlawful damage).”.

(6) After paragraph 43 insert—

43A An offence under section 1 of the Child Abduction Act 1984 (c. 37) (offence of abduction of child by parent, etc).

43B An offence under section 2 of that Act (offence of abduction of child by other persons).”.

- (7) After paragraph 56 insert—
- “**56A** An offence under section 2 of the Protection from Harassment Act 1997 (c. 40) (offence of harassment).”.
- (8) In paragraph 57, for “the Protection from Harassment Act 1997 (c. 40)” substitute “that Act”.
- (9) After paragraph 60 insert—
- “**60A** An offence under section 85(3) or (4) of the Postal Services Act 2000 (c. 26) (prohibition on sending certain articles by post).”.
- (10) After paragraph 61 insert—
- “**61A** An offence under section 127(1) of the Communications Act 2003 (c. 21) (improper use of public electronic communications network).”.
- (11) For paragraph 63 substitute—
- “An offence under any of sections 51 to 53 or 57 to 59 of this Act.”.
- (12) After paragraph 117 insert—
- “**117A** Outraging public decency.”.
- (13) After paragraph 138 insert—
- “**138A** An offence under section 9(1)(a) of that Act (riotous, disorderly and indecent behaviour, etc).”.
- (14) After paragraph 139 insert—
- “**139A** An offence under section 1 of the Theft Act (Northern Ireland) 1969 (c. 16) (basic definition of theft).”.
- (15) In paragraph 140, for “the Theft Act (Northern Ireland) 1969 (c. 16)” substitute “that Act”.
- (16) For paragraph 141 substitute—
- “An offence under section 9(1)(a) of that Act (burglary with intent to steal, inflict grievous bodily harm or do unlawful damage).”.
- (17) After paragraph 154 insert—
- “**154A** An offence under Article 3 of the Child Abduction (Northern Ireland) Order 1985 (S.I. 1638 (N.I. 17)) (offence of abduction of child by parent).
- “**154B** An offence under Article 4 of that Order (offence of abduction of child by other person).”.
- (18) After paragraph 165 insert—
- “**165A** An offence under Article 4 of the Protection from Harassment (Northern Ireland) Order 1997 (S.I. 1997/1180) (N.I. 9)) (offence of harassment).”.
- (19) In paragraph 166, for “the Protection from Harassment (Northern Ireland) Order 1997 (S.I. 1997/1180 (N.I. 9))” substitute “that Order”.
- (20) After paragraph 168 insert—
- “**168A** An offence under section 85(3) or (4) of the Postal Services Act 2000 (c. 26) (prohibition on sending certain articles by post).”.
- (21) After paragraph 169 insert—
- “**169A** An offence under section 127(1) of the Communications Act 2003 (c. 21) (improper use of public electronic communications network).”.
- (22) For paragraph 171 substitute—

“An offence under any of sections 51 to 53 or 57 to 59 of this Act.”.

Parliamentary Under Secretary of State

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends Schedules 3 and 5 to the Sexual Offences Act 2003 (“the Act”). Section 80 of the Act provides that if a person is convicted, found not guilty by reason of insanity or cautioned for an offence listed in Schedule 3 to the Act, or found to be under a disability and to have done the act charged against him in respect of such an offence, then that person is subject to the notification requirements of Part 2 of the Act. An offence under Schedule 3 may also make a person a qualifying offender for the purposes of a foreign travel order under section 114 of the Act. Article 2 of this Order adds three offences to Schedule 3 to the Act in respect of both England and Wales and Northern Ireland. Schedule 5 to the Act lists the offences which, in addition to those listed in Schedule 3, may lead to a person being made subject to a sexual offences prevention order under section 104 of the Act. Article 3 of this Order adds eight offences for England and Wales and nine offences for Northern Ireland to Schedule 5 to the Act. Article 3 also removes from Schedule 5 the three offences being added to Schedule 3.