

*These notes refer to the Sexual Offences Act 2003 (c.42)
which received Royal Assent on 20 November 2003*

SEXUAL OFFENCES ACT 2003

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1: Sexual Offences

Section 73: Exceptions to aiding, abetting or counselling

136. **Section 73** provides that, in certain defined circumstances, a person is not guilty of aiding, abetting or counselling a sexual offence under sections 5, 6 and 7 (offences against children under 13), section 9 (sexual activity with a child), section 13 (where the offence would be an offence under section 9 if the offender were over 18) and sections 16, 25, 30, 34 and 38 (where the victim is a child under 16).
137. 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.
138. 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.