
STATUTORY INSTRUMENTS

2003 No. 1247

The Criminal Justice (Northern Ireland) Order 2003

PART IV
SEXUAL OFFENCES

Rape

18.—(1) A man commits rape if—

- (a) he has sexual intercourse with a person who at the time of the intercourse does not consent to it; and
- (b) at the time he knows that the person does not consent to the intercourse or is reckless as to whether that person consents to it.

(2) Any reference to rape in a statutory provision shall be construed in accordance with paragraph (1).

(3) It is hereby declared that if at a trial for a rape offence the jury has to consider whether a man believed that a person was consenting to sexual intercourse, the presence or absence of reasonable grounds for such a belief is a matter to which the jury is to have regard, in conjunction with any other relevant matters, in considering whether he so believed.

(4) In this Article—

“man” includes a male person of any age;

“rape offence” means rape, attempted rape, aiding, abetting, counselling and procuring rape or attempted rape, incitement to rape, conspiracy to rape, assault with intent to rape and burglary with intent to rape; and

references to sexual intercourse are to sexual intercourse whether vaginal or anal and shall be construed as references to carnal knowledge in accordance with section 63 of the Offences Against the Person Act 1861 (c. 100) (under which such intercourse is deemed complete on proof of penetration only).

Buggery

19.—(1) It is an offence for a person to commit buggery with another person other than in the circumstances described in paragraph (2) or (3).

(2) The first circumstances referred to in paragraph (1) are that the act of buggery takes place in private and both parties have attained the age of 17 years.

(3) The second circumstances so referred to are that the person is under the age of 17 years and the other person has attained that age.

(4) An act of buggery shall not be treated as taking place in private if it takes place—

- (a) when more than two persons take part or are present; or

(b) in a lavatory to which the public have or are permitted to have access, whether on payment or otherwise.

(5) In any proceedings against a person for buggery with another person it shall be for the prosecution to prove that the act of buggery took place otherwise than in private or that one of the parties to it had not attained the age of 17 years.

(6) Subject to paragraph (7) a person guilty of an offence of buggery with another person shall be liable on conviction on indictment to imprisonment for a term not exceeding two years.

(7) A person guilty of an offence of buggery with another person shall be liable on conviction on indictment—

(a) to life imprisonment if the other person was under the age of 16 years at the time of the commission of the offence; or

(b) (subject to sub-paragraph (a)) to imprisonment for a term not exceeding five years if the other person was under the age of 18 and the accused had attained the age of 21 years at the time of the commission of the offence.

Assault with intent to commit buggery

20. A person who assaults another person with intent to commit buggery shall be guilty of an offence and liable on conviction on indictment to imprisonment for a term not exceeding ten years.

Indecent assault on a male

21.—(1) A person who makes an indecent assault on a man shall be guilty of an offence and liable on conviction on indictment to imprisonment for a term not exceeding ten years.

(2) In this Article “man” includes a male person of any age.

Penalty for indecent conduct towards child

22.—(1) In section 22 of the Children and Young Persons Act (Northern Ireland) 1968 (c. 34) (indecent conduct towards child), in paragraph (a) (maximum of two years' imprisonment on conviction on indictment), for “two” there shall be substituted “ten”.

(2) Paragraph (1) does not apply in relation to an offence committed before the commencement of this Article.

Abolition of presumption of sexual incapacity

23. The presumption of criminal law that a boy under the age of 14 years is incapable of sexual intercourse is hereby abolished.