

# 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 7 – Supplementary and general**

#### *Article 76: Offences outside the United Kingdom*

7.150. *Paragraph (1)* of Article 76 makes it an offence in Northern Ireland for a British citizen or UK resident to commit certain acts overseas against a child under 16. The act done must amount to a sexual offence in Northern Ireland. The exact description of the offence does not need to be the same in both countries. For example, the provisions could apply to someone who raped a child in another country although that offence was described differently under the law in that country. *Paragraph (6)* provides that the defendant can require the prosecution to prove that what was done was an overseas offence.

#### *Article 77: Exceptions to aiding, abetting or counselling*

7.151. *Article 77* provides that, in certain defined circumstances, a person is not guilty of aiding, abetting or counselling a sexual offence under Articles 12 to 14 (offences against children under 13), Article 16 (sexual activity with a child), Article 20 (where the offence would be an offence under Article 16 if the offender were over 18) and Articles 23, 32, 43, 47 and 51 (where the victim is a child under 16). 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.

7.152. 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.

#### *Article 78: Amendments of Sexual Offences Act 2003*

7.153. *Article 78* provides details of amendments to the Sexual Offences Act 2003 which no longer apply to Northern Ireland as a result of this Order.

*This Explanatory Memorandum refers to the Sexual  
Offences (Northern Ireland) Order 2008 No. 1769 (N.I. 2)*

**Article 79: Amendment of the Criminal Law Act (Northern Ireland) 1967**

- 7.154. **Article 79** amends “relevant offence” for section 5(1) of the Criminal Law Act (Northern Ireland) 1967 to exclude from the mandatory reporting requirements an offence under Article 20 (sexual offences against children committed by children or young persons).

**Article 80: Orders**

- 7.155. **Article 80** provides that any orders made by the Secretary of State under the Order shall be subject to annulment in pursuance of a resolution of either Houses of Parliament.