

2022 No. 52 (C. 3)

CRIMINAL LAW

**The Domestic Abuse Act 2021 (Commencement No. 1) Order
(Northern Ireland) 2022**

Made - - - - *17th February 2022*

The Department of Justice, in exercise of the powers conferred by section 90(4) and (10) of the Domestic Abuse Act 2021 (a), makes the following Order.

Citation and interpretation

1.—(1) This Order may be cited as the Domestic Abuse Act 2021 (Commencement No. 1) Order (Northern Ireland) 2022.

(2) In this Order “the 2021 Act” means the Domestic Abuse Act 2021.

Appointed Day

2. The day appointed for the coming into operation of the following provisions of the 2021 Act is 21st February 2022.

- (a) Section 73 (Offences against the person committed outside the UK: Northern Ireland);
- (b) 74(3) (Amendments relating to offences committed outside the UK);
- (c) Part 3 of Schedule 3.

Sealed with the Official Seal of the Department of Justice on 17th February 2022



Naomi Long
Minister of Justice

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force on 21st February 2022 section 73, section 74(3) and Part 3 of Schedule 3 of the Domestic Abuse Act 2021 (c.2021 c.17). The equivalent provisions came into force in England and Wales (S.I. 2021/1038) and Scotland (S.S.I. 2021/239) on 29th June 2021.

Section 73 extends the circumstances in which certain sexual and violent offences committed abroad may be prosecuted in Northern Ireland, where the offence is committed by a UK national or a person habitually resident in Northern Ireland.

Subsection (1) makes it an offence in Northern Ireland for a person who is a UK national (as defined in subsection (8)), or is habitually resident in Northern Ireland, to commit certain acts in a country outside the UK. Specifically, the act done must amount to an offence listed in subsection (2) and must also amount to an offence in the country where it was committed.

Subsection (3) excludes murder and manslaughter from the ambit of subsection (1) where a person would otherwise be guilty of those offences under the law of Northern Ireland. Subsection (4) provides that the precise description of the offence does not need to be the same in both countries. For example, the provisions could apply to someone who committed grievous bodily harm in another country although that offence was described differently under the law in that country.

Subsections (5) to (7) provide a procedure under which the defendant can challenge the prosecution to prove that the act in question constitutes an offence under the law of the country where it took place.

Subsection (8) provides relevant definitions and Subsection (9) provides that the Interpretation Act (Northern Ireland) 1954 applies to this section as it applies to an Act of the Northern Ireland Assembly.

Section 74(3) introduces Schedule 3 which further extends the circumstances in which certain sexual and violent offences committed abroad may be prosecuted in Northern Ireland (Part 3) where the offence is committed by a UK national or person habitually resident in Northern Ireland

Paragraph 7 of Schedule 3 (Part 3) inserts a new Article 6A in the Protection from Harassment Order (Northern Ireland) 1997 (“the 1997 Order”).

Article 6 of the 1997 Order makes it an offence for a person to pursue a course of conduct which causes another to fear, on at least two occasions, that violence will be used against him, and where that person knows, or ought to know, that their course of conduct will cause the victim to fear violence on each occasion.

New section 6A makes it an offence in Northern Ireland for a person who is a UK national (as defined in new section 6A (2)) or is habitually resident in Northern Ireland to pursue, wholly or partly in a country outside the UK, a course of conduct that would amount to an offence under section 6 of the 1997 Order if it occurred in Northern Ireland.

Paragraph 8 of Schedule 3 (Part 3) amends Article 76 of the Sexual Offences (Northern Ireland) Order 2008 (“the 2008 Order”) which makes provision for certain sexual offences committed outside the UK. Paragraph 8(d) inserts a new paragraph 76 (10A) into the 2008 Order. This makes it an offence in Northern Ireland for a UK national or a person who is habitually resident in Northern Ireland to commit an act outside the UK amounting to an offence under any provision of Part 2 of the 2008 Order (namely, rape, assault by penetration, sexual assault and causing a person to engage in sexual activity without consent) where the victim of the offence was aged 18 or over at the time of the offence. For and, for a person habitually resident in Northern Ireland, the act would also have to constitute an offence in the country where it was committed. (Article 76 of the 2008 Order already makes provision for extraterritorial jurisdiction over equivalent offences against a child under 18).

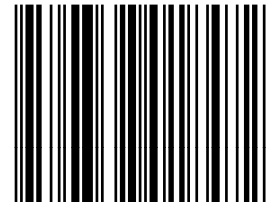
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