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DRAFT STATUTORY INSTRUMENTS

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**2008 No.**

**The Sexual Offences (Northern Ireland) Order 2008**

**PART 4**

**SEXUAL OFFENCES AGAINST A PERSON WITH A MENTAL DISORDER**

*Care workers for persons with a mental disorder*

**Care workers: sexual activity in the presence of a person with a mental disorder**

**53.**—(1) A person (A) commits an offence if—

- (a) he intentionally engages in an activity,
- (b) the activity is sexual,
- (c) for the purpose of obtaining sexual gratification, he engages in it—
  - (i) when another person (B) is present or is in a place from which A can be observed, and
  - (ii) knowing or believing that B is aware, or intending that B should be aware, that he is engaging in it,
- (d) B has a mental disorder,
- (e) A knows or could reasonably be expected to know that B has a mental disorder, and
- (f) A is involved in B's care in a way that falls within Article 55.

(2) Where in proceedings for an offence under this Article it is proved that the other person had a mental disorder, it is to be taken that the defendant knew or could reasonably have been expected to know that that person had a mental disorder unless sufficient evidence is adduced to raise an issue as to whether he knew or could reasonably have been expected to know it.

(3) A person guilty of an offence under this Article is liable—

- (a) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum or both;
- (b) on conviction on indictment, to imprisonment for a term not exceeding 7 years.