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DRAFT STATUTORY INSTRUMENTS

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**2008 No.**

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

**PART 6**

**MISCELLANEOUS SEXUAL OFFENCES**

*Preparatory offences*

**Administering a substance with intent**

**65.**—(1) A person commits an offence if he intentionally administers a substance to, or causes a substance to be taken by, another person (B)—

- (a) knowing that B does not consent, and
  - (b) with the intention of stupefying or overpowering B, so as to enable any person to engage in a sexual activity that involves B.
- (2) 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 10 years.

**Committing an offence with intent to commit a sexual offence**

**66.**—(1) A person commits an offence under this Article if he commits any offence with the intention of committing a relevant sexual offence.

(2) In this Article “relevant sexual offence” means any offence under—

- (a) this Order, or
- (b) section 57, 58 or 59 of the Sexual Offences Act 2003 (c. 42) (trafficking for sexual exploitation),

including an offence of aiding, abetting, counselling or procuring such an offence.

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

- (a) where the offence is committed by kidnapping or false imprisonment, or
- (b) where—

- (i) the offence is committed by assault, and
  - (ii) the intended relevant sexual offence is an offence under Article 5 or 6,
- is liable on conviction on indictment, to imprisonment for life.

(4) Unless paragraph (3) applies, 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 10 years.

### **Trespass with intent to commit a sexual offence**

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

- (a) he is a trespasser on any premises,
- (b) he intends to commit a relevant sexual offence on the premises, and
- (c) he knows that, or is reckless as to whether, he is a trespasser.

(2) In this Article—

“premises” includes a structure or part of a structure;

“relevant sexual offence” has the same meaning as in Article 66;

“structure” includes a tent, vehicle or vessel or other temporary or movable structure.

(3) A person guilty of an offence under this Article is liable on conviction on indictment, where the intended relevant sexual offence is an offence under Article 5 or 6, to imprisonment for a term not exceeding 14 years.

(4) Unless paragraph (3) applies, 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 10 years.

### *Sex with an adult relative*

### **Sex with an adult relative: penetration**

**68.**—(1) A person aged 16 or over (A), subject to paragraph (4), commits an offence if—

- (a) he intentionally penetrates another person’s vagina or anus with a part of his body or anything else, or penetrates another person’s mouth with his penis,
- (b) the penetration is sexual,
- (c) the other person (B) is aged 18 or over,
- (d) A is related to B in a way mentioned in paragraph (2), and
- (e) A knows or could reasonably be expected to know that he is related to B in that way.

(2) The ways that A may be related to B are as parent, grandparent, child, grandchild, brother, sister, half-brother, half-sister, uncle, aunt, nephew or niece.

(3) In paragraph (2)—

- (a) “parent” includes an adoptive parent;
- (b) “child” includes an adopted child within the meaning of Part 5 of the [Adoption \(Northern Ireland\) Order 1987 \(NI 22\)](#);
- (c) “uncle” means the brother of a person’s parent, and “aunt” has a corresponding meaning;
- (d) “nephew” means the child of a person’s brother or sister, and “niece” has a corresponding meaning.

(4) Where paragraph (1) applies in a case where A is related to B as B’s child by virtue of paragraph (3)(b), A does not commit an offence under this Article unless A is 18 or over.

(5) Where in proceedings for an offence under this Article it is proved that the defendant was related to the other person in any of those ways, it is to be taken that the defendant knew or could

reasonably be expected to know that he was related in that way unless sufficient evidence is adduced to raise an issue as to whether he knew or could reasonably have been expected to know that he was.

- (6) 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 2 years.

### **Sex with an adult relative: consenting to penetration**

- 69.**—(1) A person aged 16 or over (A), subject to paragraph (4), commits an offence if—
- (a) another person (B) penetrates A’s vagina or anus with a part of B’s body or anything else, or penetrates A’s mouth with B’s penis,
  - (b) A consents to the penetration,
  - (c) the penetration is sexual,
  - (d) B is aged 18 or over,
  - (e) A is related to B in a way mentioned in paragraph (2), and
  - (f) A knows or could reasonably be expected to know that he is related to B in that way.

(2) The ways that A may be related to B are as parent, grandparent, child, grandchild, brother, sister, half-brother, half-sister, uncle, aunt, nephew or niece.

- (3) In paragraph (2)—
- (a) “parent” includes an adoptive parent;
  - (b) “child” includes an adopted child within the meaning of Part 5 of the [Adoption \(Northern Ireland\) Order 1987 \(NI 22\)](#);
  - (c) “uncle” means the brother of a person’s parent, and “aunt” has a corresponding meaning;
  - (d) “nephew” means the child of a person’s brother or sister, and “niece” has a corresponding meaning.

(4) Where paragraph (1) applies in a case where A is related to B as B’s child by virtue of paragraph (3)(b), A does not commit an offence under this Article unless A is 18 or over.

(5) Where in proceedings for an offence under this Article it is proved that the defendant was related to the other person in any of those ways, it is to be taken that the defendant knew or could reasonably be expected to know that he was related in that way unless sufficient evidence is adduced to raise an issue as to whether he knew or could reasonably have been expected to know that he was.

- (6) 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 2 years.

### *Other offences*

### **Exposure**

- 70.**—(1) A person commits an offence if—
- (a) he intentionally exposes his genitals, and
  - (b) he intends that someone will see them and be caused alarm or distress.
- (2) 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 2 years.

### **Voyeurism**

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

- (a) for the purpose of obtaining sexual gratification, he observes another person doing a private act, and
- (b) he knows that the other person does not consent to being observed for his sexual gratification.

(2) A person commits an offence if—

- (a) he operates equipment with the intention of enabling another person to observe, for the purpose of obtaining sexual gratification, a third person (B) doing a private act, and
- (b) he knows that B does not consent to his operating equipment with that intention.

(3) A person commits an offence if—

- (a) he records another person (B) doing a private act, and
- (b) he does so with the intention that he or a third person will, for the purpose of obtaining sexual gratification, look at an image of B doing the act, and
- (c) he knows that B does not consent to his recording the act with that intention.

(4) A person commits an offence if he installs equipment, or constructs or adapts a structure or part of a structure, with the intention of enabling himself or another person to commit an offence under paragraph (1).

(5) 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 2 years.

### **Voyeurism: interpretation**

**72.**—(1) For the purposes of Article a person is doing a private act if the person is in a place which, in the circumstances, would reasonably be expected to provide privacy, and—

- (a) the person's genitals, buttocks or breasts are exposed or covered only with underwear,
- (b) the person is using a lavatory, or
- (c) the person is doing a sexual act that is not of a kind ordinarily done in public.

(2) In Article 71, "structure" includes a tent, vehicle or vessel or other temporary or movable structure.

### **Intercourse with an animal**

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

- (a) he intentionally performs an act of penetration with his penis,
- (b) what is penetrated is the vagina or anus of a living animal, and
- (c) he knows that, or is reckless as to whether, that is what is penetrated.

(2) A person (A) commits an offence if—

- (a) he intentionally causes, or allows, A's vagina or anus to be penetrated,

- (b) the penetration is by the penis of a living animal, and
  - (c) A knows that, or is reckless as to whether, that is what A is being penetrated by.
- (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 2 years.

### **Sexual penetration of a corpse**

- 74.—(1) A person commits an offence if—
- (a) he intentionally performs an act of penetration with his penis,
  - (b) what is penetrated is a part of the body of a dead person, and
  - (c) he knows that, or is reckless as to whether, that is what is penetrated, and
  - (d) the penetration is sexual.
- (2) 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 2 years.

### **Sexual activity in a public lavatory**

- 75.—(1) A person commits an offence if—
- (a) he is in a lavatory to which the public or a section of the public has or is permitted to have access, whether on payment or otherwise,
  - (b) he intentionally engages in an activity, and
  - (c) the activity is sexual.
- (2) For the purposes of this Article, an activity is sexual if a reasonable person would, in all the circumstances but regardless of any person's purpose, consider it to be sexual.
- (3) A person guilty of an offence under this Article is liable on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding level 5 on the standard scale or both.