

*These notes refer to the Sexual Offences Act 2003 (c.42)
which received Royal Assent on 20 November 2003*

SEXUAL OFFENCES ACT 2003

EXPLANATORY NOTES

SUMMARY

5. The Act is in three Parts:
6. **Part 1** makes new provision about sexual offences. It covers the non-consensual offences of rape, assault by penetration, sexual assault and causing a person to engage in sexual activity without consent. It defines “consent” and “sexual” and sets out evidential and conclusive presumptions about consent. It covers child sex offences and offences involving an abuse of a position of trust towards a child. Familial child sex offences and offences involving adult relatives are provided for, as are offences designed to give protection to persons with a mental disorder. The age of a “child” in the Protection of Children Act 1978 has been amended to 18, and defences are provided for in limited cases where the child is 16 or over and the defendant is the child’s partner. A limited defence is also introduced to the offence of “making” an indecent photograph or pseudo-photograph of a child where the purpose of the “making” is to combat crime. This Part also covers offences relating to prostitution, child pornography, and trafficking. It provides for preparatory offences, such as administering a substance with intent to commit a sexual offence, and a number of miscellaneous offences, such as voyeurism and intercourse with an animal. Section 72 provides that there is extra-territorial jurisdiction for many acts which, if committed in England and Wales or Northern Ireland, would amount to offences under Part 1 committed against a child under 16 or (in the case of Northern Ireland) under 17. The Part extends to England and Wales and some provisions also extend to Northern Ireland.
7. **Part 2** contains measures for protecting the public from sexual harm. Part 1 of the Sex Offenders Act 1997 has been re-enacted with a number of amendments. A notification order enabling the notification requirements to be applied to offenders with convictions abroad has been created. Sex offender orders (s.2 of Crime and Disorder Act 1998) and restraining orders (s.5 of Sex Offenders Act 1997) have been combined into a new civil preventative order – a sexual offences prevention order. Risk of sexual harm orders, specifically designed to protect children from sexual harm, have been created, as have foreign travel orders, which can be used to prevent an offender with a conviction for a sex offence against a child from travelling to countries where he is at risk of abusing children. Part 2 extends to England and Wales and Northern Ireland, and, save for Schedule 4 and the risk of sexual harm orders, to Scotland.
8. **Part 3** contains general provisions relating to the Act, including minor and consequential amendments and commencement provisions.