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STATUTORY INSTRUMENTS

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**2008 No. 1769**

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

**PART 3**

**SEXUAL OFFENCES AGAINST CHILDREN**

*Familial sex offences against children under 18*

**Inciting a child family member to engage in sexual activity**

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

- (a) he intentionally incites another person (B) to touch, or allow himself to be touched by, A,
- (b) the touching is sexual,
- (c) the relation of A to B is within Article 34,
- (d) A knows or could reasonably be expected to know that his relation to B is of a description falling within that Article, and
- (e) either—
  - (i) B is under 18 and A does not reasonably believe that B is 18 or over, or
  - (ii) B is under 13.

(2) Where in proceedings for an offence under this Article it is proved that the other person was under 18, the defendant is to be taken not to have reasonably believed that that person was 18 or over unless sufficient evidence is adduced to raise an issue as to whether he reasonably believed it.

(3) Where in proceedings for an offence under this Article it is proved that the relation of the defendant to the other person was of a description falling within Article 34, it is to be taken that the defendant knew or could reasonably have been expected to know that his relation to the other person was of that description unless sufficient evidence is adduced to raise an issue as to whether he knew or could reasonably have been expected to know that it was.

(4) A person guilty of an offence under this Article, if he was aged 18 or over at the time of the offence, is liable—

- (a) where paragraph (6) applies, on conviction on indictment to imprisonment for a term not exceeding 14 years;
- (b) in any other case—
  - (i) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum or both;
  - (ii) on conviction on indictment, to imprisonment for a term not exceeding 14 years.

(5) Unless paragraph (4) 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 5 years.
- (6) This paragraph applies where the touching to which the incitement related involved—
  - (a) penetration of B's anus or vagina with a part of A's body or anything else,
  - (b) penetration of B's mouth with A's penis,
  - (c) penetration of A's anus or vagina with a part of B's body, or
  - (d) penetration of A's mouth with B's penis.

**Changes to legislation:**

There are currently no known outstanding effects for the The Sexual Offences (Northern Ireland) Order 2008, Section 33.