
STATUTORY INSTRUMENTS

2008 No. 1769

The Sexual Offences (Northern Ireland) Order 2008

PART 1

INTRODUCTORY

Title and commencement

- 1.—(1) This Order may be cited as the Sexual Offences (Northern Ireland) Order 2008.
- (2) The following provisions of this Order come into operation one week after the day on which this Order is made—
 - (a) this Part;
 - (b) Article 80;
 - (c) Article 82.
- (3) The other provisions of this Order come into operation on such day or days as the Secretary of State may by order appoint.

Subordinate Legislation Made

P1 [Art. 1\(3\)](#) power fully exercised: 2.2.2009 appointed by [S.R. 2008/510](#), [art. 2](#)

Interpretation

- 2.—(1) The Interpretation Act (Northern Ireland) 1954 (c.33) applies to this Order as it applies to an Act of the Assembly.
- (2) The following provisions of this Article apply for the purposes of this Order.
- (3) “Statutory provision” must be construed in accordance with section 1(f) of the Interpretation Act (Northern Ireland) 1954 (c. 33).
- (4) “The 1995 Order” means the Children (Northern Ireland) Order 1995 (NI 2).
- [^{F1}(4A) “The Department” means the Department of Justice.]
- (5) Penetration is a continuing act from entry to withdrawal.
- (6) References to a part of the body include references to a part surgically constructed (in particular, through gender reassignment surgery).
- (7) “Image” means a moving or still image and includes an image produced by any means and, where the context permits, a three-dimensional image.
- (8) References to an image of a person include references to an image of an imaginary person.
- (9) “Mental disorder” has the meaning given by Article 3 of the Mental Health (Northern Ireland) Order 1986 (NI 4).

(10) References to observation (however expressed) are to observation whether direct or by looking at an image.

(11) Touching includes touching—

- (a) with any part of the body,
- (b) with anything else,
- (c) through anything,

and in particular includes touching amounting to penetration.

(12) “Vagina” includes vulva.

(13) In relation to an animal, references to the vagina or anus include references to any similar part.

Textual Amendments

F1 Art. 2(4A) inserted (27.11.2023) by *Justice (Sexual Offences and Trafficking Victims) Act (Northern Ireland) 2022 (c. 19), ss. 5(2), 30(2); S.R. 2023/188, art. 3(a)*

“Consent”

3. For the purposes of this Order, a person consents if he agrees by choice, and has the freedom and capacity to make that choice.

“Sexual”

4. For the purposes of this Order, except [^{F2}Article 22A (sexual communication with a child) or] Article 75 (sexual activity in a public lavatory), penetration, touching or any other activity is sexual if a reasonable person would consider that—

- (a) whatever its circumstances or any person's purpose in relation to it, it is because of its nature sexual, or
- (b) because of its nature it may be sexual and because of its circumstances or the purpose of any person in relation to it (or both), it is sexual.

Textual Amendments

F2 Words in art. 4 inserted (25.7.2015) by *Justice Act (Northern Ireland) 2015 (c. 9), ss. 90(2), 106(1)(b)*

Changes to legislation:

There are currently no known outstanding effects for the The Sexual Offences (Northern Ireland) Order 2008, PART 1.