

2009 No. 265

CRIMINAL LAW

Sexual Offences (Northern Ireland) Order 2008 (Transitional Provisions) Order 2009

Made - - - - - *4th July 2009*

Coming into operation - *10th August 2009*

To be laid before Parliament

The Secretary of State makes the following order in exercise of the powers conferred by Articles 80 and 82 of the Sexual Offences (Northern Ireland) Order 2008 (a):

Citation and commencement

1. This order may be cited as the Sexual Offences (Northern Ireland) Order 2008 (Transitional Provisions) Order 2009 and shall come into operation on 10th August 2009.

Interpretation

2. In this order “the Order” means the Sexual Offences (Northern Ireland) Order 2008.

Transitional provisions

3. In any proceedings to which this order applies, where —

- (a) a person (“the defendant”) is charged in respect of the same conduct both with the offence of rape contrary to Article 5 of the Order and with rape contrary to the common law;
- (b) the only thing preventing the defendant from being found guilty of the offence contrary to Article 5 of the Order is the fact that it has not been proved beyond a reasonable doubt that the time when the conduct which gave rise to the charge took place was after the coming into operation of Article 5 of the Order; and
- (c) the only thing preventing the defendant from being found guilty of the offence of rape contrary to the common law is the fact that it has not been proved beyond a reasonable doubt that that time was before the coming into operation of the abolition of the offence of rape contrary to common law for the purpose of determining the guilt of the defendant it shall be conclusively presumed that the time when the conduct took place was after the coming into operation of Article 5 of the Order.

4. A reference in Article 3 to an offence shall include a reference to —

- (a) inciting the commission of that offence;
- (b) conspiring to commit that offence; and
- (c) attempting to commit that offence.

5. This order applies to any proceedings, whenever commenced, for either of the offences referred to in Article 3 other than proceedings in which the defendant has been convicted or acquitted of either of those offences before the coming into operation of this order.

Northern Ireland Office
4th July 2009

Paul Goggins
Minister of State

EXPLANATORY NOTE

(This note is not part of the Order)

This order makes transitional provisions regarding proceedings for the offences of rape contrary to the common law and rape contrary to Article 5 to the Sexual Offences (Northern Ireland) Order 2008.

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