Draft Order in Council laid before Parliament under section 84(4) of the Northern Ireland Act 1998, for approval by resolution of each House of Parliament. The draft Order is consequential on the draft Sexual Offences (Northern Ireland) Order 2008. It is proposed that both Orders will, if approved by Parliament, be presented for making at the same meeting of the Privy Council.

DRAFT STATUTORY INSTRUMENTS

2008 No.

NORTHERN IRELAND

The Sexual Offences (Northern Ireland Consequential Amendments) Order 2008

Made - - - - ***

Coming into force in accordance with Article 2

At the Court at Buckingham Palace, the *** day of ***2008

Present,

The Queen's Most Excellent Majesty in Council

A draft of this Order in Council has been approved by resolution of each House of Parliament:

Accordingly, Her Majesty, in exercise of the powers conferred upon Her by section 84(2) of the Northern Ireland Act 1998(**1**), by and with the advice of Her Privy Council, orders as follows:

PART 1

INTRODUCTORY

Title and extent

1.—(1) This Order may be cited as the Sexual Offences (Northern Ireland Consequential Amendments) Order 2008.

(2) This Article, and Articles 2, 13 and 14, extend to the whole of the United Kingdom.

(3) The remaining provisions of this Order extend to England and Wales and to Northern Ireland.

(**1**) 1998 c. 47.

Commencement

2.—(1) Article 1, this Article and Article 9 come into force one week after the day on which this Order is made.

(2) Article 15 comes into force—

(a) so far as relating to the repeal of paragraph 18(2) of Schedule 6 to the Sexual Offences Act 2003(**2**), on the day appointed for the coming into operation of paragraph 12(2) of Schedule 1 to the principal Order;

(b) so far as relating to the repeal of paragraph 39 of Schedule 6 to that Act, on the day appointed for the coming into operation of paragraph 26(b) of Schedule 1 to the principal Order;

(c) so far as relating to the repeal of paragraph 46(5)(a) of Schedule 6 to that Act, on the day appointed for the coming into operation of paragraph 29(3) of Schedule 1 to the principal Order;

(3) The remaining provisions of this Order come into force on the day appointed for the coming into operation of Article 78 of the principal Order.

(4) In this Article "the principal Order" means the Sexual Offences (Northern Ireland) Order 2008(**3**).

PART 2

SEXUAL OFFENCES ACT 2003

Amendment of the Sexual Offences Act 2003

3. The Sexual Offences Act 2003(**4**) is amended in accordance with the following provisions of this Part.

Section 15 (meeting a child following sexual grooming etc.)

4.—(1) Section 15 is amended as follows.

(2) Omit subsection (2)(b)(ii).

(3) In subsection (2)(b)(iii) omit "and Northern Ireland" and "or (ii)".

(4) Omit subsection (3).

Section 20 (abuse of position of trust: acts done in Scotland)

5.—(1) Section 20 is amended as follows.

(2) Omit "or Northern Ireland".

(3) After "in Scotland" insert "or Northern Ireland".

Section 21 (positions of trust)

6.—(1) Section 21 is amended as follows.

(**2**) 2003 c. 42.
(**3**) S.I. 2008/ (NI).
(**4**) 2003 c. 42. Sections 15 and 72 were amended by the Criminal Justice and Immigration Act 2008 (c.). Section 142(2) was amended by paragraph 3 of Schedule 4 to the Violent Crime Reduction Act 2006 (c. 38). In Schedule 5, paragraph 171 was amended by the Sexual Offences Act 2003 (Amendment of Schedules 3 and 5) Order 2007 (S.I. 2007/296) and paragraph 171A was inserted by paragraph 59(3) of Schedule 10 to the Domestic Violence, Crime and Victims Act 2004 (c. 28).

(2) In subsection (3)—

(a) in paragraph (a) omit "or Article 27(2) of the Children (Northern Ireland) Order 1995 (S.I.1995/755 (N.I. 2))", and

(b) in paragraph (b) omit "or Article 75(1) of that Order".

(3) In subsection (4)—

(a) in paragraph (c) omit "residential care home or private hospital",

(b) at the end of paragraph (d) insert "or",

(c) omit the word "or" at the end of paragraph (e), and

(d) omit paragraph (f).

(4) Omit subsection (6).

(5) In subsection (8) omit paragraph (b) and the word "or" at the end of paragraph (a).

(6) In subsection (9) omit "or under Article 4 of the Children (Northern Ireland) Order 1995".

(7) In subsection (10) omit paragraph (b) and the word "or" at the end of paragraph (a).

(8) In subsection (12)(c) omit "or Article 60(1) of the Children (Northern Ireland) Order 1995".

Section 22 (positions of trust: interpretation)

7. In section 22(5) omit the following provisions—

(a) paragraph (b) of the definition of "authority";

(b) paragraph (b) of the definition of "care order", and the word "and" at the end of paragraph (a);

(c) paragraph (b) of the definition of "children's home", and the word "and" at the end of paragraph (a);

(d) paragraph (b) of the definition of "education supervision order", and the word "and" at the end of paragraph (a);

(e) paragraph (b) of the definition of "hospital";

(f) paragraph (b) of the definition of "independent clinic";

(g) the definitions of "private hospital", "residential care home" and "residential family centre";

(h) paragraph (b) of the definition of "supervision order", and the word "and" at the end of paragraph (a);

(i) paragraph (b) of the definition of "voluntary home", and the word "and" at the end of paragraph (a).

Section 47 (paying for sexual services of a child)

8. Omit section 47(7) (modification for Northern Ireland).

Section 60 (trafficking offences under sections 57 to 59: interpretation and jurisdiction)

9. In section 60(1), after paragraph (b) insert—

"(ba) an offence under any provision of the Sexual Offences (Northern Ireland) Order 2008,".

Section 72 (offences outside the United Kingdom)

10.—(1) Section 72 is amended as follows.

(2) In subsection (1)—

(a) omit "or Northern Ireland", and

(b) for "that part of the United Kingdom" substitute "England and Wales".

(3) In subsection (2)—

(a) omit "or Northern Ireland", and

(b) for "that part of the United Kingdom" substitute "England and Wales".

(4) In subsection (3)—

(a) omit "or Northern Ireland", and

(b) for "that part of the United Kingdom" substitute "England and Wales".

Section 142 (extent, saving etc.)

11. In section 142(2) (provisions which extend to Northern Ireland)—

(a) for paragraph (a) substitute—

"(a) sections 46 and 57 to 60C,", and

(b) omit paragraph (b).

Schedule 2 (sexual offences to which section 72 applies)

12. In Schedule 2 omit—

(a) paragraph 2, and

(b) in paragraph 3 the words "or 2(1)".

Schedule 3 (sexual offences for the purposes of Part 2)

13. In Schedule 3, after paragraph 92 insert—

"**92A.** An offence under Article 5 or 6 of the Sexual Offences (Northern Ireland) Order 2008 (rape, assault by penetration).

92B. An offence under Article 7 of that Order (sexual assault) if—

(a) where the offender was under 18, he is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months;

(b) in any other case—

(i) the victim was under 18, or

(ii) the offender, in respect of the offence or finding, is or has been—

(aa) sentenced to a term of imprisonment,

(bb) detained in a hospital, or

(cc) made the subject of a community sentence of at least 12 months.

92C. An offence under Article 8, 12 or 13 of that Order (causing sexual activity without consent, rape of a child under 13, assault of a child under 13 by penetration).

92D. An offence under Article 14 of that Order (sexual assault of a child under 13) if the offender—

(a) was 18 or over, or

(b) is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months.

92E. An offence under any of Articles 15 to 19 of that Order (causing or inciting a child under 13 to engage in sexual activity, sexual offences against children committed by adults).

92F. An offence under Article 20 of that Order (sexual offences against children committed by children or young persons), if the offender is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months.

92G. An offence under Article 21 of that Order (arranging or facilitating the commission of a sexual offence against a child) if the offender—

(a) was 18 or over, or

(b) is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months.

92H. An offence under Article 22 of that Order (meeting a child following sexual grooming etc).

92I. An offence under any of Articles 23 to 26 of that Order (abuse of a position of trust) if the offender, in respect of the offence, is or has been—

(a) sentenced to a term of imprisonment,

(b) detained in a hospital, or

(c) made the subject of a community sentence of at least 12 months.

92J. An offence under Article 32 or 33 of that Order (familial sexual offences against children) if the offender—

(a) was 18 or over, or

(b) is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months.

92K. An offence under Article 37 (paying for sexual services of a child) if the victim or (as the case may be) other party was under 16, and the offender—

(a) was 18 or over, or

(b) is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months.

92L. An offence under Article 38 (causing or inciting child prostitution or pornography) if the offender—

(a) was 18 or over, or

(b) is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months.

92M. An offence under Article 39 (controlling a child prostitute or a child involved in pornography) if the offender—

(a) was 18 or over, or

(b) is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months.

92N. An offence under Article 40 (arranging or facilitating child prostitution or pornography) if the offender—

(a) was 18 or over, or