

Status: Point in time view as at 27/11/2023.

Changes to legislation: There are currently no known outstanding effects for the Justice (Sexual Offences and Trafficking Victims) Act (Northern Ireland) 2022. (See end of Document for details)

SCHEDULES

SCHEDULE 1

Section 3.

Consequential amendments: voyeurism and unwanted sexual images

Police and Criminal Evidence (Northern Ireland) Order 1989 (NI 12)

1. In Article 53A(2) (questioning and treatment of persons by police: meaning of “qualifying offence”), in sub-paragraph (s), for “to 71” substitute “to 71B, 72A”.

Commencement Information

- I1 Sch. 1 para. 1 not in operation at Royal Assent, see **s. 30(2)**
- I2 Sch. 1 para. 1 in operation at 27.11.2023 by S.R. 2023/188, **art. 3(b)**

Sexual Offences (Amendment) Act 1992 (c. 34)

2. In section 2(3) (offences under law of Northern Ireland to which the Act applies), in paragraph (hb)(ii), after “71,” insert “71A, 71B, 72A”.

Commencement Information

- I3 Sch. 1 para. 2 not in operation at Royal Assent, see **s. 30(2)**
- I4 Sch. 1 para. 2 in operation at 27.11.2023 by S.R. 2023/188, **art. 3(b)**

Industrial Tribunals (Northern Ireland) Order 1996 (NI 18)

3. In Article 13(4) (power to provide for restriction of publicity in certain cases), in paragraph (b)(viii) of the definition of “sexual offence”, after “71” insert “, 71A, 71B, 72A”.

Commencement Information

- I5 Sch. 1 para. 3 not in operation at Royal Assent, see **s. 30(2)**
- I6 Sch. 1 para. 3 in operation at 27.11.2023 by S.R. 2023/188, **art. 3(b)**

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Sexual Offences Act 2003 (c. 42)

4. In Schedule 3 (sexual offences for purposes of notification requirements), after paragraph 92V insert—

(1) An offence under Article 71A or 71B of that Order (voyeurism: additional offences) if—

- (a) the offence was committed for the purpose mentioned in Articles 71A(2)(a)(i) and (5)(a)(i) and 71B(2)(a)(i) and (5)(a)(i) (sexual gratification), and
- (b) the relevant condition is met.

(2) Where the offender was under 18, the relevant condition is that the offender is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months.

(3) In any other case, the relevant condition is that—

- (a) the victim was under 18, or
- (b) the offender, in respect of the offence or finding, is or has been—
 - (i) sentenced to a term of imprisonment,
 - (ii) detained in a hospital, or
 - (iii) made the subject of a community sentence of at least 12 months.

(1) An offence under Article 72A of that Order (sending etc an unwanted sexual image) if—

- (a) the offence was committed for the purpose mentioned in Article 72A(3)(a) (sexual gratification), and
- (b) the relevant condition is met.

(2) Where the offender was under 18, the relevant condition is that the offender is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months.

(3) In any other case, the relevant condition is that—

- (a) the victim was under 18, or
- (b) the offender, in respect of the offence or finding, is or has been—
 - (i) sentenced to a term of imprisonment,
 - (ii) detained in a hospital, or
 - (iii) made the subject of a community sentence of at least 12 months.”.

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I7 Sch. 1 para. 4 not in operation at Royal Assent, see [s. 30\(2\)](#)

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18 Sch. 1 para. 4 in operation at 27.11.2023 by S.R. 2023/188, **art. 3(b)**

Criminal Justice (Northern Ireland) Order 2008 (NI 1)

5. In Part 2 of Schedule 2 (specified sexual offences), in paragraph 14A, for the words from “Article 71 (exposure),” to the end of the paragraph substitute—

“Article 70 (exposure),

Article 71 (voyeurism),

Article 71A (voyeurism: additional offences (genitals and buttocks)),

Article 71B (voyeurism: additional offences (breasts)),

Article 72A (sending etc an unwanted sexual image),

Article 73 (intercourse with an animal),

Article 74 (sexual penetration of a corpse).”.

Commencement Information

I9 Sch. 1 para. 5 not in operation at Royal Assent, see **s. 30(2)**

I10 Sch. 1 para. 5 in operation at 27.11.2023 by S.R. 2023/188, **art. 3(b)**

SCHEDULE 2

Section 7.

Miscellaneous amendments as to sexual offences

PART 1

Amendments of references to certain forms of child sexual abuse

1. The Sexual Offences (Northern Ireland) Order 2008 is amended as follows.

Commencement Information

I11 Sch. 2 para. 1 not in operation at Royal Assent, see **s. 30(2)**

I12 Sch. 2 para. 1 in operation at 27.11.2023 by S.R. 2023/188, **art. 3(b)**

2. For the italic heading preceding Article 37 substitute “*Abuse of children under 18: payment for sexual services and involvement in indecent images*”.

Commencement Information

I13 Sch. 2 para. 2 not in operation at Royal Assent, see **s. 30(2)**

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114 Sch. 2 para. 2 in operation at 27.11.2023 by S.R. 2023/188, art. 3(b)

3.—(1) Article 38 is amended as follows.

(2) For paragraph (1) substitute—

“(1) A person (A) commits an offence if—

(a) A intentionally causes or incites another person (B) to offer or provide sexual services to a third person in return for payment, and

(b) either—

(i) B is under 18, and A does not reasonably believe that B is 18 or over, or

(ii) B is under 13.

(1A) A person (A) commits an offence if—

(a) A intentionally causes or incites another person (B) to be involved in the recording or streaming or other transmission of an indecent image of B, and

(b) either—

(i) B is under 18, and A does not reasonably believe that B is 18 or over, or

(ii) B is under 13.”.

(3) For the title substitute “Causing or inciting abuse: payment for sexual services and involvement in indecent images”.

Commencement Information

115 Sch. 2 para. 3 not in operation at Royal Assent, see s. 30(2)

116 Sch. 2 para. 3 in operation at 27.11.2023 by S.R. 2023/188, art. 3(b)

4.—(1) Article 39 is amended as follows.

(2) For paragraph (1) substitute—

“(1) A person (A) commits an offence if—

(a) A intentionally controls any of the activities of another person (B) relating to the offering or provision by B of sexual services to a third person in return for payment, and

(b) either—

(i) B is under 18, and A does not reasonably believe that B is 18 or over, or

(ii) B is under 13.

(1A) A person (A) commits an offence if—

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- (a) A intentionally controls any of the activities of another person (B) relating to B’s involvement in the recording or streaming or other transmission of an indecent image of B, and
- (b) either—
 - (i) B is under 18, and A does not reasonably believe that B is 18 or over, or
 - (ii) B is under 13.”.
- (3) For the title substitute “Controlling a child: payment for sexual services and involvement in indecent images”.

Commencement Information

I17 Sch. 2 para. 4 not in operation at Royal Assent, see [s. 30\(2\)](#)

I18 Sch. 2 para. 4 in operation at 27.11.2023 by [S.R. 2023/188](#), [art. 3\(b\)](#)

- 5.—(1) Article 40 is amended as follows.
- (2) For paragraph (1) substitute—
 - “(1) A person (A) commits an offence if—
 - (a) A intentionally arranges or facilitates the offering or provision by another person (B) of sexual services to a third person in return for payment, and
 - (b) either—
 - (i) B is under 18, and A does not reasonably believe that B is 18 or over, or
 - (ii) B is under 13.
 - (1A) A person (A) commits an offence if—
 - (a) A intentionally arranges or facilitates the involvement by another person (B) in the recording or streaming or other transmission of an indecent image of B, and
 - (b) either—
 - (i) B is under 18, and A does not reasonably believe that B is 18 or over, or
 - (ii) B is under 13.”.
 - (3) For the title substitute “Arranging or facilitating abuse: payment for sexual services and involvement in indecent images”.

Commencement Information

I19 Sch. 2 para. 5 not in operation at Royal Assent, see [s. 30\(2\)](#)

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I20 Sch. 2 para. 5 in operation at 27.11.2023 by S.R. 2023/188, art. 3(b)

6. For Article 41 substitute—

“**41.**—(1) This Article applies for the purposes of Articles 38 to 40.

(2) References to—

(a) offering or providing sexual services, or

(b) the recording or streaming or other transmission of an image,

are to doing so in any part of the world.

(3) In Articles 38(1), 39(1) and 40(1)—

(a) references to B offering or providing sexual services are to doing so on at least one occasion, and

(b) it does not matter whether B is compelled to offer or provide the services.

(4) References to “payment”—

(a) include promises of payment, and

(b) are to payment to B or another person.

(5) “Payment” means any financial advantage, including the discharge of an obligation to pay or the provision of goods or services (including sexual services) gratuitously or at a discount.”

Commencement Information

I21 Sch. 2 para. 6 not in operation at Royal Assent, see s. 30(2)

I22 Sch. 2 para. 6 in operation at 27.11.2023 by S.R. 2023/188, art. 3(b)

PART 2

Amendments relating to the offence of engaging in sexual communication with a child

7. In Article 76(10)(a) of the Sexual Offences (Northern Ireland) Order 2008 (offences outside the United Kingdom), omit “except Article 22A”.

Commencement Information

I23 Sch. 2 para. 7 not in operation at Royal Assent, see s. 30(2)

I24 Sch. 2 para. 7 in operation at 27.11.2023 by S.R. 2023/188, art. 3(b)

8. In Schedule 3 to the Sexual Offences Act 2003 (sexual offences for purposes of notification requirements)—

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- (a) omit paragraph 92HA;
- (b) after paragraph 92I insert—

“**92IA.** An offence under Article 22A of that Order (sexual communication with a child).”.

Commencement Information

I25 Sch. 2 para. 8 not in operation at Royal Assent, see [s. 30\(2\)](#)

I26 [Sch. 2 para. 8](#) in operation at 27.11.2023 by [S.R. 2023/188](#), [art. 3\(b\)](#)

- 9.** In section 90 of the Justice Act (Northern Ireland) 2015, omit subsections (3) and (4).

Commencement Information

I27 Sch. 2 para. 9 not in operation at Royal Assent, see [s. 30\(2\)](#)

I28 [Sch. 2 para. 9](#) in operation at 27.11.2023 by [S.R. 2023/188](#), [art. 3\(b\)](#)

PART 3

Amendment relating to the offence of paying for the sexual services of a person

- 10.** In Article 64A of the Sexual Offences (Northern Ireland) Order 2008 (offence of paying for sexual services of a person), for paragraph (4) substitute—

“(4) No offence is committed under this Article unless the sexual services that are provided or are to be provided by B to A fall within paragraph (4A) or (4B).

(4A) Sexual services fall within this paragraph if they involve—

- (a) B being physically in A’s presence,
- (b) B touching A or A touching B, and
- (c) the touching being sexual.

(4B) Sexual services fall within this paragraph if they involve—

- (a) B being physically in A’s presence, and
- (b) B touching B in a sexual manner for the sexual gratification of A.”.

Commencement Information

I29 Sch. 2 para. 10 not in operation at Royal Assent, see [s. 30\(2\)](#)

I30 [Sch. 2 para. 10](#) in operation at 27.11.2023 by [S.R. 2023/188](#), [art. 3\(b\)](#)

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SCHEDULE 3

Section 16.

Offence of breach of anonymity: providers of information society services

Exceptions for mere conduits

1.—(1) A service provider does not commit an offence under section 16 by providing access to a communication network or by transmitting, in a communication network, information provided by a recipient of the service, if the service provider does not—

- (a) initiate the transmission,
- (b) select the recipient of the transmission, or
- (c) select or modify the information contained in the transmission.

(2) For the purposes of sub-paragraph (1)—

- (a) providing access to a communication network, and
- (b) transmitting information in a communication network,

include the automatic, intermediate and transient storage of the information transmitted so far as the storage is solely for the purpose of carrying out the transmission in the network.

(3) Sub-paragraph (2) does not apply if the information is stored for longer than is reasonably necessary for the transmission.

Commencement Information

I31 Sch. 3 para. 1 not in operation at Royal Assent, see [s. 30\(2\)](#)

I32 [Sch. 3 para. 1](#) in operation at 27.11.2023 by [S.R. 2023/188](#), [art. 3\(b\)](#) (with [art. 4](#))

Exception for caching

2.—(1) A service provider does not commit an offence under section 16 by storing information provided by a recipient of the service for transmission in a communication network if the first and second conditions are met.

(2) The first condition is that the storage of the information—

- (a) is automatic, intermediate and temporary, and
- (b) is solely for the purpose of making more efficient the onward transmission of the information to other recipients of the service at their request.

(3) The second condition is that the service provider—

- (a) does not modify the information,

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- (b) complies with any conditions attached to having access to the information, and
 - (c) if sub-paragraph (4) applies, promptly removes the information or disables access to it.
- (4) This sub-paragraph applies if the service provider obtains actual knowledge that—
- (a) the information at the initial source of the transmission has been removed from the network,
 - (b) access to it has been disabled, or
 - (c) a court or administrative authority has ordered the removal from the network of, or the disablement of access to, the information.

Commencement Information

I33 Sch. 3 para. 2 not in operation at Royal Assent, see [s. 30\(2\)](#)

I34 [Sch. 3 para. 2](#) in operation at 27.11.2023 by [S.R. 2023/188](#), [art. 3\(b\)](#) (with [art. 4](#))

Exception for hosting

3.—(1) A service provider does not commit an offence under section 16 by storing information provided by a recipient of the service if—

- (a) the service provider had no actual knowledge when the information was provided that its provision constituted an offence under section 16, or
- (b) on obtaining actual knowledge that the information constituted such an offence, the service provider promptly removed the information or disabled access to it.

(2) Sub-paragraph (1) does not apply if the recipient of the service is acting under the authority or control of the service provider.

Commencement Information

I35 Sch. 3 para. 3 not in operation at Royal Assent, see [s. 30\(2\)](#)

I36 [Sch. 3 para. 3](#) in operation at 27.11.2023 by [S.R. 2023/188](#), [art. 3\(b\)](#) (with [art. 4](#))

Interpretation

4. In this Schedule—

“information society service” means any service normally provided—

- (a) for remuneration,

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- (b) at a distance (namely, the service is provided without the parties being simultaneously present),
- (c) by electronic means (namely, the service is—
 - (i) sent initially and received at its destination by means of electronic equipment for the processing (including digital compression) and storage of data, and
 - (ii) entirely transmitted, conveyed and received by wire, radio, optical means or other electromagnetic means), and
- (d) at the individual request of a recipient of services (namely, the service is provided through the transmission of data on individual request);

“recipient”, in relation to a service, means a person who, for professional ends or otherwise, uses an information society service, in particular for the purposes of seeking information or making it accessible;

“service provider” means a person providing an information society service.

Commencement Information

I37 Sch. 3 para. 4 not in operation at Royal Assent, see [s. 30\(2\)](#)

I38 Sch. 3 para. 4 in operation at 27.11.2023 by [S.R. 2023/188](#), [art. 3\(b\)](#) (with [art. 4](#))

SCHEDULE 4

Section 28.

Offence of non-fatal strangulation or asphyxiation: consequential amendments

Police and Criminal Evidence (Northern Ireland) Order 1989 (NI 12)

1. In Article 53A (qualifying offences for particular investigative purposes), in paragraph (2)—

- (a) the second of the two sub-paragraphs numbered as (t) is renumbered as (u),
- (b) after the second of those two sub-paragraphs insert—

“(v) an offence under section 28 of the Justice (Sexual Offences and Trafficking Victims) Act (Northern Ireland) 2022 (non-fatal strangulation or asphyxiation).”.

Commencement Information

I39 Sch. 4 para. 1 not in operation at Royal Assent, see [s. 30\(2\)](#)

I40 Sch. 4 para. 1(b) in operation at 26.6.2023 by [S.R. 2023/87](#), [art. 2\(b\)](#)

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Changes to legislation: There are currently no known outstanding effects for the Justice (Sexual Offences and Trafficking Victims) Act (Northern Ireland) 2022. (See end of Document for details)

Sexual Offences Act 2003 (c. 42)

2. In Schedule 5 (lists of offences for making particular orders), after paragraph 171G insert—

“**171H.** An offence under section 28 of the Justice (Sexual Offences and Trafficking Victims) Act (Northern Ireland) 2022 (non-fatal strangulation or asphyxiation).”.

Commencement Information

I41 Sch. 4 para. 2 not in operation at Royal Assent, see **s. 30(2)**

I42 Sch. 4 para. 2 in operation at 26.6.2023 by S.R. 2023/87, **art. 2(b)**

Criminal Justice (Northern Ireland) Order 2008 (NI 1)

3. In Schedule 2 (lists of offences for sentencing matters), in Part 1—

- (a) the second of the two paragraphs numbered as 31A is renumbered as 31B,
- (b) after the second of those two paragraphs insert—

“The Justice (Sexual Offences and Trafficking Victims) Act (Northern Ireland) 2022

31C. An offence under section 28 (non-fatal strangulation or asphyxiation).”.

Commencement Information

I43 Sch. 4 para. 3 not in operation at Royal Assent, see **s. 30(2)**

I44 Sch. 4 para. 3(b) in operation at 26.6.2023 by S.R. 2023/87, **art. 2(b)**

Domestic Violence, Crime and Victims Act 2004 (c. 28)

4. In section 7A (certain rules of evidence and procedure), after paragraph (b) of subsection (2) insert—

“(c) an offence under section 28 of the Justice (Sexual Offences and Trafficking Victims) Act (Northern Ireland) 2022 (non-fatal strangulation or asphyxiation).”.

Commencement Information

I45 Sch. 4 para. 4 not in operation at Royal Assent, see **s. 30(2)**

I46 Sch. 4 para. 4 in operation at 26.6.2023 by S.R. 2023/87, **art. 2(b)**

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Law Reform (Miscellaneous Provisions) (Northern Ireland) Order 2006 (NI 14)

5. In Article 2 (unjustifiable punishment of children), in paragraph (2)—
- (a) omit the “and” preceding sub-paragraph (e),
 - (b) after sub-paragraph (e) insert—
 - “(f) an offence under section 28 of the Justice (Sexual Offences and Trafficking Victims) Act (Northern Ireland) 2022 (non-fatal strangulation or asphyxiation).”.

Commencement Information

I47 Sch. 4 para. 5 not in operation at Royal Assent, see **s. 30(2)**

I48 Sch. 4 para. 5 in operation at 26.6.2023 by **S.R. 2023/87, art. 2(b)**

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