

**SAFER FROM
SEXUAL CRIME:
HOW THE
LAW IS
PROTECTING
YOU**



Northern
Ireland
Office

The Sexual Offences (Northern Ireland) Order 2008 provides a framework to protect everyone from sexual crime. This leaflet sets out the main laws.

Further leaflets in this series cover the law and young people and the laws which are important to those who work with children or with people who have mental disorders or learning difficulties.

These leaflets are:

- Safer from sexual crime: protecting children and young people
- Working within the Sexual Offences Order 2008

There are also short leaflets covering the following topics:

- Sex and consent: what you need to know
- Sex, young people and the law: what you need to know
- Adult sexual offending against children: the law
- Sex and the vulnerable: what you need to know
- The law and prostitution: what you need to know

SEXUAL OFFENCES: PUTTING VICTIMS FIRST

Rape and other sexual offences are dreadful crimes which deeply affect the lives of victims and their families, and cause great concern within the community.

The new law recognises the damage done by sexual offences, while protecting the right of adults to a private sex life.

The Sexual Offences Order is the first major overhaul of sexual offences legislation in Northern Ireland for more than a century, setting out a strong, clear and modern approach, in the same way as the Sexual Offences Act 2003 did for England and Wales.

These new laws put victims first.

They are designed to protect everyone from abuse and exploitation. They reflect the reality of life today and set out clear boundaries about what is, and what is not, acceptable sexual behaviour. This is something that the law until now has failed to do. The new laws are non-discriminatory, so that men, women and people of all sexual orientations are equally protected. Again, this is something that has not happened before.

They set down strong penalties for specific sexual crimes and give the courts and the police the clarity they need to do their job and help protect everyone from abusers.

As well as this new legislation, the support for victims of sexual crime is being improved all the time, with better methods of police investigation and increased support services for victims and witnesses.

If you are a victim of sexual crime, the law is now better designed to support you.

THE NEW LAW ON CONSENT

“A person consents if s/he agrees by choice and has the freedom and capacity to make that choice.”

Sexual Offences Order, Article 3.

When it comes to sex between adults, the consent of both parties is key. Put simply, rape and sexual assaults are sexual acts – acts which would otherwise be legal, but which are carried out without the consent of one of the people involved.

Because consent is the issue dividing legal from criminal, the Sexual Offences Order now sets out, for the first time in Northern Ireland, a clear definition of consent and new responsibilities about obtaining it.

Now, if a defendant in court wants to claim they believed the other person was consenting, they will have to show they have **reasonable grounds** for that belief.

Until now, if a defendant could prove they honestly believed consent had been given, however unreasonable that belief was, they would have been acquitted. The law now recognises the injustice in this approach.

If someone is threatened with immediate violence, was drugged by their attacker so as to be incapable of making a decision about consent, or was unconscious or asleep, it is extremely unlikely that they have the freedom to consent. Again, the Order now sets down circumstances like these where the courts will start from the presumption that the victim did not consent.

CONSENT IN PRACTICE

“I said no and he tried to talk me into it. Then he started shouting and getting angry. In the end I went along with it. I was too scared to say anything.”

“I was in a pub. This guy asked me to have sex. I didn’t say anything and escaped to the loo. He followed me in, pushed me into a cubicle and raped me.”

“I told him I was too tired to have sex. I went to sleep, and woke up to find him starting to have sex with me. He refused to stop.”

None of these people gave their consent.

Giving consent means freely choosing to say ‘yes’. To rely on anything other than a clear and positive indication of consent could result in a charge of rape. **It is the responsibility of everyone to make sure that the other person agrees to sexual activity.**

Also, everyone needs to remember that a person can say yes to a kiss and other intimate behaviour but this doesn’t automatically mean yes to sex.

NEW LAWS TO PROTECT YOU

Northern Ireland's law is now largely the same as in England and Wales, with all the benefits of the extensive research which was done prior to the Sexual Offences Act in 2003.

Rape

Rape is now defined as penetration by the penis of somebody's vagina, anus or mouth, without their consent. Rape can be committed against men or women, but as it involves penile penetration it can only be committed by men.

Assault by penetration

Under this new law, it is an offence to penetrate the vagina or anus of someone else with any part of the body or with an object, if the penetration is for sexual motives and if the person does not consent.

Sexual assault

This law covers any kind of intentional sexual touching of somebody else without their consent. It includes touching any part of their body, clothed or unclothed, either with a part of the body or with an object.

Causing a person to engage in sexual activity without consent

This law makes it illegal to force a person to take part in any kind of sexual activity. For instance it would apply to a woman who forces a man to penetrate her against his will, or an abuser who makes their victim engage in masturbation.

Administering a substance with intent

This new law makes it an offence to give someone a substance – for instance spiking a drink – without their consent, and with the intention of stupefying them so that sexual activity can take place. Sexual activity might be stripping someone or taking pornographic photos of them. Someone can be charged with this offence as well as any charge for the assault offence. Or they can be charged even when the intended sexual activity did not take place, for example if someone sees what is going on and intervenes to stop it.

Other offences based on intent

Two new laws – ‘committing an offence with intent’ and ‘trespass with intent’ – cover situations where abusers commit one offence (eg use violence, burglary, kidnap) or trespass on private property with the intention of committing a sexual offence.

Other offences

Other offences in the Order include exposure, voyeurism, and sex with animals or with corpses. Voyeurism applies to watching people without their consent when they are involved in private acts. It includes setting up, viewing or recording people through electronic equipment such as webcams or cameras. There is also an offence of sexual activity in public toilets.

Other important parts of the Order deal with prostitution and exploitation; sexual offences against people with mental disorders, including learning disabilities. For further information, visit www.nio.gov.uk/sexualoffences