

## SEXUAL ASSAULT ON CHILD UNDER 13

### Sexual Offences (NI) Order 2008

14. – (1) A person commits an offence if—
- (a) he intentionally touches another person,
  - (b) the touching is sexual, and
  - (c) the other person is under 13.

#### Maximum Sentence:

*Sexual Offences (NI) Order 2008, Art.14(2)*

**Indictment: 10 years imprisonment**

**Summary: 6 months imprisonment and/or statutory maximum fine (£5,000)**

#### Assessment of Offence

*(Starting points and ranges based on 1<sup>st</sup> time offender convicted following contest)*

<u>Nature of Offence</u>	<u>Starting Point</u>	<u>Sentencing Range</u>
Contact between part of the offender's body (other than genitalia) with part of the victim's body (other than genitalia)	2 months Custody + Compensation Order	Community Order to 3 months Custody + Compensation Order
Contact between part of the offender's body and the victim's clothed genitalia	3 months Custody + Compensation Order	Community Order to 6 months Custody + Compensation Order
Contact between part of the offender's body and the victim's naked genitalia	4 months custody + Compensation Order	Community Order to 6 months Custody + Compensation Order

<u>Examples of Possible Aggravating Factors of Offence</u>	<u>Examples of Possible Mitigating Factor of Offence</u>
<ol style="list-style-type: none"> <li>1. More than one offender acting together</li> <li>2. Abuse of trust/special relationship</li> <li>3. Offence motivated by prejudice (race, religion, sexual orientation, physical disability)</li> <li>4. Sustained attack</li> <li>5. Negative impact on the victim(s)</li> <li>6. More than one victim</li> <li>7. Victims targeted, groomed, exploited</li> <li>8. Physical or mental harm caused</li> <li>9. Vulnerability of the victim</li> </ol>	<ol style="list-style-type: none"> <li>1. Youth and immaturity of the offender</li> <li>2. Single isolated incident with minimal or fleeting contact</li> </ol>

#### Relevant Cases:

*NI Cases:*

1. [Attorney General's Reference \(No. 4 or 2005\) \(Kerr\) \[2005\] NICA 33](#)
2. [R v Horrocks \(07/02/97\)](#)
3. [Attorney General's Reference \(No.16 of 2003\) \(Deery\) \[2003\] NICA 44](#)
4. Attorney General's Reference (No. 3 of 2001) (Hall) [2002] 2 BNIL 93
5. R v Lavery [2001] 4 BNIL 20 (CA)
6. [Attorney General's Reference \(No. 1 of 2003\) \[2003\] NICA 19](#)

*English Cases*

N/A

#### Notes:

1. This is a newly created offence but replaces indecent assault on a female (contrary to s.52 of the Offences Against the Person Act 1861) and indecent assault on a male (contrary to art.21 of the Criminal Justice (NI) Order 2003), where V is under 13.
2. The act committed is the same as Article 7 of the Sexual Offences (NI) Order 2008 (sexual assault) but here CONSENT IS NOT AN ISSUE.
3. Notification requirements under Part 2 of the Sexual Offences Act 2003 apply where 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.
4. 'Children Barred List' and 'Vulnerable Adults Barred List' under the Safeguarding Vulnerable Groups (NI) Order 2007 apply.