

## Extraterritorial offence which applies to British sex offenders who whilst overseas commit offences against a child aged under 18

### What is this?

Under section 72 of the Sexual Offences Act (SOA) 2003, it is an offence for a British citizen or UK resident to commit in a foreign country an offence listed in Schedule 2 to the SOA against a child aged under 18.

### How can it help me?

Section 72 can be used by the Crown Prosecution Service (CPS) to prosecute British citizens or UK residents in England and Wales, who have committed an offence (listed below) overseas. The exact description of the offence does not have to be the same in both the UK and the foreign country in which the offence was committed.

### When can I use it?

Section 72 can be relied upon by the CPS where the offence against a child under 18 is listed in Schedule 2 to the SOA. These offences include:

- Rape of a child under 13;
- Sexual activity with a child;
- Causing or inciting a child to engage in sexual activity;
- Arranging or facilitating commission of a child sex offence;
- Meeting a child following sexual grooming etc.;
- Abuse of position of trust: sexual activity with a child;
- Paying for sexual services of a child;
- Causing or inciting child prostitution or pornography;
- Controlling a child prostitute or a child involved in pornography; and
- Arranging or facilitating child prostitution or pornography.

### What's the procedure?

National Crime Agency (NCA) officers should liaise with the CPS at the earliest opportunity. Section 72(6) and (7) of the SOA further have the effect that it will be assumed the act did constitute an offence in the country in which it took place unless the defendant serves on the CPS a notice three days before the hearing stating that the condition is not met, giving reasons for this opinion, and requiring the police to show that it has been met. The court may require the prosecution to prove the condition is met even if the notice is not given.

### Who can help me?

Child Exploitation Online Protection Command

Email:

## Give me an example.

By way of example, section 72 is intended to catch an offender who commits an offence against a child, family member, or a child living in the foreign country while they are on holiday and the offence goes undetected until the offender returns to the UK.

## What do I need to watch out for?

The section 72 process can be challenging, with considerable cost and time implications.

- When making use of section 72, legal disparities between England and Wales and the country in question can create difficulties; and
- The need to secure evidence from overseas; in particular the CPS may need to issue letters of request and witnesses may need to give evidence from abroad.

## Further Reading / Useful Links:

- Legislation: Section 72 of the Sexual Offences Act 2003 (as amended)
- Legislation: Home Office Guidance on Part 2 of the Sexual Offences Act 2003 (March 2015)
- Internet: CPS Guidance: [www.cps.gov.uk](http://www.cps.gov.uk) (legal jurisdiction)

## Related Sections:

- Child Exploitation and Online Protection Command
- International Child Protection Certificate
- Notification Order
- Sexual Harm Prevention Order
- Sexual Risk Order