

victim for any of the purposes specified within section 4(4)(c). This amendment enables the prosecution of those who traffic very young children, babies and those who lack mental capacity to exploit them for benefit.

Further guidance is also available in the Human Trafficking and Smuggling chapter of the legal guidance on the infonet.⁵

Offences outside the UK – s.72 Sexual Offences Act 2003 <Archbold 2-36a – 2-36g>

The Sexual Offences (Conspiracy and Incitement) Act 1996 made it an offence to conspire to commit, or to incite the commission of certain sexual acts abroad against children. The Act came into force on October 1 1996. Section 1 related to conspiracy and section 2 related to incitement. Section 1 was repealed by the Criminal Justice (Terrorism and Conspiracy) Act 1998 and replaced by section 1A of the Criminal Law Act 1977 which was inserted by s.5(1) of the 1998 Act and came into force on September 4 1998.

Section 7 of the Sex Offenders Act 1997 extended the jurisdiction of the courts of England, Wales and Northern Ireland. It came into force on September 1 1997 and was repealed and replaced by section 72 of the Sexual Offences Act 2003 on 1 May 2004. If a person commits an act abroad, which is an offence in that country or territory, that person can be prosecuted in the UK for the offence if it is a sexual offence listed in Schedule 2 of SOA 2003. Proceedings relating to offences committed abroad can only be brought against a person who was on 1 September 1997, or has since become, a British Citizen or person who is resident in the UK.

On July 14 2008, a new s.72 was substituted by the Criminal Justice and Immigration Act 2008, s.72(1).

⁵ *Working Together to Safeguard Children Who May have been Trafficked – <http://police.homeoffice.gov.uk/operational-policing/safeguarding-vulnerable-persons/child-trafficking/> See also Infonet – Legal – Policy Bulletin - P/LG/04/2008 : Human Trafficking and Facilitation. See also policy bulletin P/LG/57/09.*

s.72(1) - If a UK national does an act in a country outside the UK, and the act if done in the England and Wales or Northern Ireland, would constitute a sexual offence, the UK national is guilty in that part of the UK (England and Wales).

s.72(2) – If a UK resident does an act in a country outside the UK, the act constitutes an offence under the law in force in that country, and the act if done in England and Wales or Northern Ireland, would constitute a sexual offence to which this section applies, the UK resident is guilty in that part of the UK (England and Wales) of that sexual offence.

s.72(3) – If a person does an act in a country outside the UK at a time when the person was not a UK national or a UK resident, the act constituted an offence under the law in force in that country, the act, if done in England and Wales or Northern Ireland, would have constituted a sexual offence to which this section applies, and the person meets the residence or nationality condition at the relevant time, proceedings may be brought against the person in that part of the UK (England and Wales) for that sexual offence as if the person had done an act there.

The Criminal Justice and Immigration Act 2008 removed the need to prove dual criminality for UK nationals.

Effectively, jurisdiction was extended in respect of sexual offences in 1997, but there have been two subsequent amendments. None of these provisions have retrospective effect and liability under each repealed provision in respect of the period when it was in force is preserved generally by s.16 of the Interpretation Act 1978.

Note, s.72 does not permit the prosecution of offences committed in Scotland as Scotland is part of the UK. In such cases, the CPS should notify the Fiscals Office. The Scottish police will then carry out a separate investigation, liaising with the English police. There are differences between and English