



Criminal Justice and Public Order Act 1994

1994 CHAPTER 33

PART VII

OBSCENITY AND PORNOGRAPHY AND VIDEOS

Obscene publications and indecent photographs of children

84 Indecent pseudo-photographs of children

- (1) The Protection of Children Act 1978 shall be amended as provided in subsections (2) and (3) below.
- (2) In section 1 (which penalises the taking and distribution of indecent photographs of children and related acts)—
 - (a) in paragraph (a) of subsection (1)—
 - (i) after the word “taken” there shall be inserted the words “or to make”, and the words following “child” shall be omitted;
 - (ii) after the word “photograph” there shall be inserted the words “or pseudo-photograph”;
 - (b) in paragraphs (b), (c) and (d) of subsection (1), after the word “photographs” there shall be inserted the words “or pseudo-photographs”;
 - (c) in subsection (2), after the word “photograph” there shall be inserted the words “or pseudo-photograph”; and
 - (d) in paragraphs (a) and (b) of subsection (4), after the word “photographs” there shall be inserted the words “or pseudo-photographs”.
- (3) In section 7 (interpretation)—
 - (a) in subsection (3), at the end, there shall be inserted the words “and so as respects pseudo-photographs”; and
 - (b) for subsection (4) there shall be substituted the following subsection—

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- “(4) References to a photograph include—
- (a) the negative as well as the positive version; and
 - (b) data stored on a computer disc or by other electronic means which is capable of conversion into a photograph.”
- (c) after subsection (5) there shall be inserted the following subsections—
- “(6) “Child”, subject to subsection (8), means a person under the age of 16.
- (7) “Pseudo-photograph” means an image, whether made by computer-graphics or otherwise howsoever, which appears to be a photograph.
- (8) If the impression conveyed by a pseudo-photograph is that the person shown is a child, the pseudo-photograph shall be treated for all purposes of this Act as showing a child and so shall a pseudo-photograph where the predominant impression conveyed is that the person shown is a child notwithstanding that some of the physical characteristics shown are those of an adult.
- (9) References to an indecent pseudo-photograph include—
- (a) a copy of an indecent pseudo-photograph; and
 - (b) data stored on a computer disc or by other electronic means which is capable of conversion into a pseudo-photograph.”
- (4) Section 160 of the Criminal Justice Act 1988 (which penalises the possession of indecent photographs of children) shall be amended as follows—
- (a) in subsection (1), after the word “photograph” there shall be inserted the words “or pseudo-photograph” and the words from “(meaning” to “16)” shall be omitted; and
 - (b) in paragraphs (a), (b) and (c) of subsection (2), after the word “photograph” there shall be inserted the words “or pseudo-photograph”; and
 - (c) in subsection (5), the reference to the coming into force of that section shall be construed, for the purposes of the amendments made by this subsection, as a reference to the coming into force of this subsection.
- (5) The Civic Government (Scotland) Act 1982 shall be amended as provided in subsections (6) and (7) below.
- (6) In section 52 (which, for Scotland, penalises the taking and distribution of indecent photographs of children and related acts)—
- (a) in paragraph (a) of subsection (1)—
 - (i) after the word “taken” there shall be inserted the words “or makes”; and
 - (ii) for the words from “of a” to the end there shall be substituted the words “or pseudo-photograph of a child”;
 - (b) in paragraphs (b), (c) and (d) of subsection (1), after the word “photograph” there shall be inserted the words “or pseudo-photograph”; and
 - (c) in subsection (2), at the beginning there shall be inserted “In subsection (1) above “child” means, subject to subsection (2B) below, a person under the age of 16; and”;
 - (d) after subsection (2), there shall be added—

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- “(2A) In this section, “pseudo-photograph” means an image, whether produced by computer-graphics or otherwise howsoever, which appears to be a photograph.
- (2B) If the impression conveyed by a pseudo-photograph is that the person shown is a child, the pseudo-photograph shall be treated for all purposes of this Act as showing a child and so shall a pseudo-photograph where the predominant impression conveyed is that the person shown is a child notwithstanding that some of the physical characteristics shown are those of an adult.
- (2C) In this section, references to an indecent pseudo-photograph include—
- (a) a copy of an indecent pseudo-photograph;
 - (b) data stored on a computer disc or by other electronic means which is capable of conversion into a pseudo-photograph.”.
- (e) in subsection (3)—
- (i) in paragraph (a), for the words “3 months” there shall be substituted the words “6 months”; and
 - (ii) in paragraph (b), for the words “two years” there shall be substituted the words “3 years”;
- (f) in subsection (4), and in paragraphs (a) and (b) of subsection (5), after the word “photograph” there shall be inserted the words “or pseudo-photograph”; and
- (g) for subsection (8)(c) there shall be substituted—
- “(c) references to a photograph include—
 - (i) the negative as well as the positive version; and
 - (ii) data stored on a computer disc or by other electronic means which is capable of conversion into a photograph.”.
- (7) In section 52A (which, for Scotland, penalises the possession of indecent photographs of children)—
- (a) in subsection (1), for the words from “of a” to “16)” there shall be substituted the words “or pseudo-photograph of a child”;
 - (b) in subsection (2), in each of paragraphs (a) to (c), after the word “photograph” there shall be inserted the words “or pseudo-photograph”;
 - (c) in subsection (3)—
 - (i) after the word “to” there shall be inserted the words “imprisonment for a period not exceeding 6 months or to”;
 - (ii) at the end there shall be added the words “or to both.”; - (d) in subsection (4), after the word “(2)” there shall be inserted the words “to (2C)”.
- (8) The Protection of Children (Northern Ireland) Order 1978 shall be amended as provided in subsections (9) and (10) below.
- (9) In Article 2 (interpretation)—
- (a) in paragraph (2)—
 - (i) in the definition of “child”, after “child” there shall be inserted the words “subject to paragraph (3)(c)”;

Status: This is the original version (as it was originally enacted).

(ii) for the definition of “photograph” there shall be substituted the following definitions—

““indecent pseudo-photograph” includes—

- (a) a copy of an indecent pseudo-photograph; and
- (b) data stored on a computer disc or by other electronic means which is capable of conversion into a pseudo-photograph;

“photograph” includes—

- (a) the negative as well as the positive version; and
- (b) data stored on a computer disc or by other electronic means which is capable of conversion into a photograph;

“pseudo-photograph” means an image, whether made by computer-graphics or otherwise howsoever, which appears to be a photograph;”;

(b) in paragraph (3)—

- (i) in sub-paragraph (a), after the word “photograph” there shall be inserted the words “or pseudo-photograph”;
- (ii) in sub-paragraph (b), at the end, there shall be inserted the words “and so as respects pseudo-photographs; and”;
- (iii) after sub-paragraph (b) there shall be inserted the following sub-paragraph—

“(c) if the impression conveyed by a pseudo-photograph is that the person shown is a child, the pseudo-photograph shall be treated as showing a child and so shall a pseudo-photograph where the predominant impression conveyed is that the person shown is a child notwithstanding that some of the physical characteristics shown are those of an adult.”.

(10) In Article 3 (which, for Northern Ireland, penalises the taking and distribution of indecent photographs of children and related acts)—

- (a) in sub-paragraph (a) of paragraph (1)—
 - (i) after the word “taken” there shall be inserted the words “or to make”;
 - (ii) after the word “photograph” there shall be inserted the words “or pseudo-photograph”;
- (b) in sub-paragraphs (b), (c) and (d) of paragraph (1), after the word “photographs” there shall be inserted the words “or pseudo-photographs”;
- (c) in sub-paragraphs (a) and (b) of paragraph (3), after the word “photographs” there shall be inserted the words “or pseudo-photographs”.

(11) Article 15 of the Criminal Justice (Evidence, etc.) (Northern Ireland) Order 1988 (which, for Northern Ireland, penalises the possession of indecent photographs of children) shall be amended as follows—

- (a) in paragraph (1), after the word “photograph” there shall be inserted the words “or pseudo-photograph” and the words from “(meaning” to “16)” shall be omitted;
- (b) in sub-paragraphs (a), (b) and (c) of paragraph (2), after the word “photograph” there shall be inserted the words “or pseudo-photograph”; and

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- (c) in paragraph (6), the reference to the coming into operation of that Article shall be construed, for the purposes of the amendments made by this subsection, as a reference to the coming into force of this subsection.