

*These notes refer to the Justice Act (Northern Ireland)  
2016 (c.21) which received Royal Assent on 12 May 2016*

# Justice Act (Northern Ireland) 2016

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## EXPLANATORY NOTES

### SCHEDULES

#### *Schedule 4*

#### **Private sexual photographs etc: Providers of Information Society Services**

##### *Paragraph 1: Exceptions for mere conduits*

This paragraph sets out when a service provider is not capable of being guilty of an offence under Section 51.

The circumstances are where the information society service provided consists of the provision of access to a communication network or the transmission in a communication network of information provided by a recipient of the service. In such circumstances the service provider is not capable of being guilty of an offence if it does not initiate the transmission, select the recipient of the transmission or select or modify the information contained in the transmission.

A service provider is, however, capable of being guilty of an offence if it stores the information for longer than is reasonably necessary for the transmission.

##### *Paragraph 2: Exception for caching*

This paragraph sets out the circumstances in which a service provider is not capable of being guilty of an offence under Section 51 in respect of the automatic, intermediate and temporary storing of information.

The circumstances are that the storage of information is solely for the purpose of making more efficient the onward transmission of information to other recipients of the service at their request; that the service provider does not modify the information; complies with any conditions attached to having access to the information; and expeditiously removes the information or disables access to it where it obtains actual knowledge that the information at the initial source of the transmission has been removed from the network, access to the information has been disabled or a court or administrative authority has ordered its removal or disablement.

***Paragraph 3: Exception for hosting***

This paragraph sets out the circumstances in which a service provider is not guilty of an offence under Section 51 where in the course of providing an information society service it stores information provided by a recipient of the service.

The circumstances include that the service provider must have no actual knowledge when the information was provided that it consisted of or included a private sexual photograph or film, that it was provided without the consent of an individual who appears in the photograph or film, or that the disclosure of the photograph or film was with the intention of causing distress to that individual.

The service provider must, on obtaining such knowledge, expeditiously remove the information or disable access to it.

***Paragraph 4: Interpretation***

This paragraph defines “photograph or film”, “information society services”, “recipient” and “service provider” for the purposes of the Schedule.