



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 ^{M1}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 ^{M2}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 ^{M3}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 ”; and
 - (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 ^{M4}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) ”;

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(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 ^{M5}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.

Extent Information

E1 S. 84(1) to (4) extends to England and Wales only; s. 84(5) to (7) extends to Scotland only; s. 84(8) to (11) extends to Northern Ireland only see s. 172(7)(13)(15).

Marginal Citations

M1 1978 c. 37.
M2 1988 c. 33.
M3 1982 c. 45.
M4 S.I. 1978/1047 (N.I. 17).
M5 S.I. 1988/1847 (N.I. 17).

85 Arrestable offences to include certain offences relating to obscenity or indecency.

- (1) ^{F1}
- (2) ^{F1}
- (3) ^{F1}
- (4) The ^{M6}Police and Criminal Evidence (Northern Ireland) Order 1989 shall be amended as provided in subsections (5) and (6) below.
- (5) In Article 26(2) (arrestable offences), after sub-paragraph (e), there shall be inserted the following sub-paragraph—
- “(f) an offence under Article 3 of the ^{M7}Protection of Children (Northern Ireland) Order 1978 (indecent photographs and pseudo-photographs of children).”.
- (6) At the end of Part II of Schedule 5 (serious arrestable offences mentioned in Article 87(2)(b)) there shall be inserted the following paragraph—

“13 **Protection of Children (Northern Ireland) Order 1978 (1978 N.I.17)**

Article 3 (indecent photographs and pseudo-photographs of children).”.

Extent Information

E2 S. 85(1) to (3) extends to England and Wales only; s. 85(4) to (6) extends to Northern Ireland only see s. 172(7)(15)

Textual Amendments

F1 S. 85(1)-(3) repealed (1.1.2006) by Serious Organised Crime and Police Act 2005 (c. 15), ss. 174, 178, Sch. 17 Pt. 2; S.I. 2005/3495, art. 2(1)(u)(xxxvi) (subject to art. 2)

Marginal Citations

M6 S.I. 1989/1341 (N.I. 12).
M7 S.I. 1978/1047 (N.I. 17).

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86 Indecent photographs of children: sentence of imprisonment.

- (1) In section 160(3) of the ^{M8}Criminal Justice Act 1988 (which makes a person convicted of certain offences relating to indecent photographs of children liable to a fine not exceeding level 5 on the standard scale) there shall be inserted after the word “to” the words “ imprisonment for a term not exceeding six months or ” and at the end the words “ , or both ”.
- (2) In Article 15(3) of the ^{M9}Criminal Justice (Evidence, etc.) (Northern Ireland) Order 1988 (which makes a person convicted in Northern Ireland of certain offences relating to indecent photographs of children liable to a fine not exceeding level 5 on the standard scale) there shall be inserted after the word “to” the words “ imprisonment for a term not exceeding 6 months or ” and at the end the words “ , or both ”.

Extent Information

E3 S. 86(1) extends to England and Wales only; s. 86(2) extends to Northern Ireland only see s. 172(7) (15)

Marginal Citations

M8 1988 c. 33.

M9 S.I. 1988/1847 (N.I. 17).

87 Publishing, displaying, selling or distributing etc. obscene material in Scotland: sentence of imprisonment.

In section 51(3) of the ^{M10}Civic Government (Scotland) Act 1982 (which makes persons convicted in summary proceedings in Scotland of certain offences relating to obscene material liable, among other penalties, to imprisonment for a period not exceeding 3 months and persons convicted there on indictment of such offences liable, among other penalties, to imprisonment for a period not exceeding 2 years), for the words “3 months” there shall be substituted the words “ 6 months ” and for the words “two years” there shall be substituted the words “ 3 years ”.

Marginal Citations

M10 1982 c. 45.

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