

CRIMINAL JUSTICE AND IMMIGRATION ACT 2008

EXPLANATORY NOTES

THE ACT

Commentary on Sections

Part 5: Criminal Law

Section 65: Defences: general

470. This section sets out a series of defences to the offence of possession of extreme pornographic images. These defences are set out in *subsection (2)*. They are the same as for the possession of indecent images of children under section 160(2) of the Criminal Justice Act 1988. They are:

- that the person had a legitimate reason for being in possession of the image; this will cover those who can demonstrate that their legitimate business means that they have a reason for possessing the image;
- that the person had not seen the image and therefore neither knew, nor had cause to suspect, that the images held were extreme pornographic images; this will cover those who are in possession of offending images but are unaware of the nature of the images; and
- that the person had not asked for the image - it having been sent without request - and that he had not kept it for an unreasonable period of time; this will cover those who are sent unsolicited material and who act quickly to delete it or otherwise get rid of it.