

STATUTORY INSTRUMENTS

1978 No. 1047

Protection of Children (Northern Ireland) Order 1978

[^{F1}Marriage and other relationships

3B.—(1) This Article applies where, in proceedings for an offence under Article 3(1)(a) of taking or making an indecent photograph [^{F2}or pseudo-photograph] of a child, or for an offence under Article 3(1)(b) or (c) relating to an indecent photograph [^{F2}or pseudo-photograph] of a child, the defendant proves that the photograph [^{F2}or pseudo-photograph] was of the child aged 16 or over, and that at the time of the offence charged the child and he—

- (a) were married or civil partners of each other, or
- (b) lived together as partners in an enduring family relationship.

(2) Paragraphs (5) and (6) also apply where, in proceedings for an offence under Article 3(1)(b) or (c) relating to an indecent photograph [^{F2}or pseudo-photograph] of a child, the defendant proves that the photograph [^{F2}or pseudo-photograph] was of the child aged 16 or over, and that at the time when he obtained it the child and he—

- (a) were married or civil partners of each other, or
- (b) lived together as partners in an enduring family relationship.

(3) This Article applies whether the photograph [^{F2}or pseudo-photograph] showed the child alone or with the defendant, but not if it showed any other person.

(4) In the case of an offence under Article 3(1)(a), if sufficient evidence is adduced to raise an issue as to whether the child consented to the photograph [^{F2}or pseudo-photograph] being taken or made, or as to whether the defendant reasonably believed that the child so consented, the defendant is not guilty of the offence unless it is proved that the child did not so consent and that the defendant did not reasonably believe that the child so consented.

(5) In the case of an offence under Article 3(1)(b), the defendant is not guilty of the offence unless it is proved that the showing or distributing was to a person other than the child.

(6) In the case of an offence under Article 3(1)(c), if sufficient evidence is adduced to raise an issue both—

- (a) as to whether the child consented to the photograph [^{F2}or pseudo-photograph] being in the defendant's possession, or as to whether the defendant reasonably believed that the child so consented, and
- (b) as to whether the defendant had the photograph [^{F2}or pseudo-photograph] in his possession with a view to its being distributed or shown to anyone other than the child,

the defendant is not guilty of the offence unless it is proved either that the child did not so consent and that the defendant did not reasonably believe that the child so consented, or that the defendant had the photograph [^{F2}or pseudo-photograph] in his possession with a view to its being distributed or shown to a person other than the child.]

F1 Art. 3B inserted (2.2.2009) by *Sexual Offences (Northern Ireland) Order 2008 (S.I. 2008/1769 (N.I. 2))*, arts. 1(3), 42(5); S.R. 2008/510, art. 2

Changes to legislation: *There are currently no known outstanding effects for the Protection of Children (Northern Ireland) Order 1978, Section 3B. (See end of Document for details)*

F2 Words in art. 3B inserted (6.4.2010) by Coroners and Justice Act 2009 (c. 25), **ss. 69(4)**, 182(5) (with s. 180); S.I. 2010/816, **art. 2**, Sch. para. 2

Changes to legislation:

There are currently no known outstanding effects for the Protection of Children (Northern Ireland) Order 1978, Section 3B.