

ELIZABETH II



1964 CHAPTER 74

An Act to strengthen the law for preventing the publication for gain of obscene matter and the publication of things intended for the production of obscene matter. [31st July 1964]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1.—(1) In section 2(1) of the Obscene Publications Act 1959 (under which it is an offence punishable on summary conviction or on indictment to publish an obscene article, whether for gain or not) after the words “any person who, whether for gain or not, publishes an obscene article” there shall be inserted the words “or who has an obscene article for publication for gain (whether gain to himself or gain to another)”. Obscene articles intended for publication for gain. 7 & 8 Eliz. 2. c. 66.

(2) For the purpose of any proceedings for an offence against the said section 2 a person shall be deemed to have an article for publication for gain if with a view to such publication he has the article in his ownership, possession or control.

(3) In proceedings brought against a person under the said section 2 for having an obscene article for publication for gain the following provisions shall apply in place of subsections (5) and (6) of that section, that is to say,—

- (a) he shall not be convicted of that offence if he proves that he had not examined the article and had no reasonable cause to suspect that it was such that his having it would make him liable to be convicted of an offence against that section; and
- (b) the question whether the article is obscene shall be determined by reference to such publication for gain

of the article as in the circumstances it may reasonably be inferred he had in contemplation and to any further publication that could reasonably be expected to follow from it, but not to any other publication.

(4) Where articles are seized under section 3 of the Obscene Publications Act 1959 (which provides for the seizure and forfeiture of obscene articles kept for publication for gain), and a person is convicted under section 2 of that Act of having them for publication for gain, the court on his conviction shall order the forfeiture of those articles:

Provided that an order made by virtue of this subsection (including an order so made on appeal) shall not take effect until the expiration of the ordinary time within which an appeal in the matter of the proceedings in which the order was made may be instituted or, where such an appeal is duly instituted, until the appeal is finally decided or abandoned; and for this purpose—

- (a) an application for a case to be stated or for leave to appeal shall be treated as the institution of an appeal; and
- (b) where a decision on appeal is subject to a further appeal, the appeal shall not be deemed to be finally decided until the expiration of the ordinary time within which a further appeal may be instituted or, where a further appeal is duly instituted, until the further appeal is finally decided or abandoned.

(5) References in section 3 of the Obscene Publications Act 1959 and this section to publication for gain shall apply to any publication with a view to gain, whether the gain is to accrue by way of consideration for the publication or in any other way.

Negatives,
etc. for
production
of obscene
articles.

2.—(1) The Obscene Publications Act 1959 (as amended by this Act) shall apply in relation to anything which is intended to be used, either alone or as one of a set, for the reproduction or manufacture therefrom of articles containing or embodying matter to be read, looked at or listened to, as if it were an article containing or embodying that matter so far as that matter is to be derived from it or from the set.

(2) For the purposes of the Obscene Publications Act 1959 (as so amended) an article shall be deemed to be had or kept for publication if it is had or kept for the reproduction or manufacture therefrom of articles for publication; and the question whether an article so had or kept is obscene shall—

- (a) for purposes of section 2 of the Act be determined in accordance with section 1(3)(b) above as if any reference there to publication of the article were a reference to

publication of articles reproduced or manufactured from it; and

- (b) for purposes of section 3 of the Act be determined on the assumption that articles reproduced or manufactured from it would be published in any manner likely having regard to the circumstances in which it was found, but in no other manner.

3.—(1) This Act may be cited as the Obscene Publications Act Citation, 1964, and this Act and the Obscene Publications Act 1959 may be cited together as the Obscene Publications Acts 1959 and 1964. commencement and extent.

(2) This Act shall come into operation on the expiration of one month beginning with the date of the passing thereof.

(3) This Act shall not extend to Scotland or to Northern Ireland.

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