



Criminal Justice Act 1988

1988 CHAPTER 33

PART XI

MISCELLANEOUS

Possession of indecent photograph of child

[^{F1}160A Marriage and other relationships

- (1) This section applies where, in proceedings for an offence under section 160 relating to an indecent photograph [^{F2}or pseudo-photograph] of a child, the defendant proves that the 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 [^{F3}or civil partners of each other] , or
 - (b) lived together as partners in an enduring family relationship.
- (2) This section also applies where, in proceedings for an offence under section 160 relating to an indecent photograph [^{F2}or pseudo-photograph] of a child, the defendant proves that the 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 [^{F3}or civil partners of each other] , or
 - (b) lived together as partners in an enduring family relationship.
- (3) This section 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) If sufficient evidence is adduced to raise an issue 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, 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.]

Changes to legislation: *Criminal Justice Act 1988, Section 160A is up to date with all changes known to be in force on or before 16 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Textual Amendments

- F1** S. 160A inserted (1.5.2004) by [Sexual Offences Act 2003 \(c. 42\)](#), **ss. 45(4)**, 141; S.I. 2004/874, **art. 2**
- F2** Words in s. 160A inserted (6.4.2010) by [Coroners and Justice Act 2009 \(c. 25\)](#), **ss. 69(2)**, 182(5) (with s. 180, Sch. 22); S.I. 2010/816, **art. 2**, Sch. para. 2
- F3** Words in s. 160A(1)(a)(2)(a) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), ss. 261(1), 263, **Sch. 27 para. 127**; S.I. 2005/3175, **art. 2(1)(2)**, Sch. 1 (subject to art. 2(3)-(5))

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 36(2)(b)(v) and word inserted by [2019 c. 17 s. 13\(3\)\(b\)](#)
- s. 36(3A)(3B) substituted for s. 36(3A) by [2008 c. 4 s. 46\(2\)](#)
- s. 41(4A) inserted by [2004 c. 28 Sch. 10 para. 28](#)
- s. 139AZA(1)(a)(iii) and word inserted by [2019 c. 17 s. 13\(4\)\(b\)](#)