



# Sexual Offences (Amendment) Act 1992

## 1992 CHAPTER 34

### 5 Offences.

[<sup>F1</sup>(1) If any matter is included in a publication in contravention of section 1, the following persons shall be guilty of an offence [<sup>F2</sup>and liable on summary conviction to a fine not exceeding level 5 on the standard scale]—

- (a) where the publication is a newspaper or periodical, any proprietor, any editor and any publisher of the newspaper or periodical;
- (b) where the publication is a relevant programme—
  - (i) any body corporate or Scottish partnership engaged in providing the programme service in which the programme is included; and
  - (ii) any person having functions in relation to the programme corresponding to those of an editor of a newspaper;
- (c) in the case of any other publication, any person publishing it.]

[<sup>F3</sup>(1A) A person guilty of an offence under this section is liable on summary conviction to imprisonment for a term not exceeding 6 months or to a fine not exceeding level 5 on the standard scale, or to both.]

- (2) Where a person is charged with an offence under this section in respect of the [<sup>F4</sup>inclusion of any matter in a publication], it shall be a defence, subject to subsection (3), to prove that the publication <sup>F5</sup>... in which the matter appeared was one in respect of which the person against whom the offence mentioned in section 1 is alleged to have been committed had given written consent to the appearance of matter of that description.
- (3) Written consent is not a defence if it is proved that any person interfered unreasonably with the peace or comfort of the person giving the consent, with intent to obtain it[<sup>F6</sup>, or that person was under the age of 16 at the time when it was given].
- (4) Proceedings for an offence under this section shall not be instituted except by or with the consent of the Attorney General [<sup>F7</sup>if the offence is alleged to have been committed in England and Wales or of the Attorney General for Northern Ireland if the offence is alleged to have been committed in Northern Ireland].

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*Changes to legislation: There are currently no known outstanding effects for the Sexual Offences (Amendment) Act 1992, Section 5. (See end of Document for details)*

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- (5) Where a person is charged with an offence under this section it shall be a defence to prove that at the time of the alleged offence he was not aware, and neither suspected nor had reason to suspect, that the publication [F8:included the matter in question.]
- [F9(5A) Where—
- (a) a person is charged with an offence under this section, and
  - (b) the offence relates to the inclusion of any matter in a publication in contravention of section 1(1),
- it shall be a defence to prove that at the time of the alleged offence he was not aware, and neither suspected nor had reason to suspect, that the allegation in question had been made.]
- (6) Where an offence under this section committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of—
- (a) a director, manager, secretary or other similar officer of the body corporate, or
  - (b) a person purporting to act in any such capacity,
- he as well as the body corporate shall be guilty of the offence and liable to be proceeded against and punished accordingly.
- (7) In relation to a body corporate whose affairs are managed by its members “director”, in subsection (6), means a member of the body corporate.
- [F10(8) Where an offence under this section is committed by a Scottish partnership and is proved to have been committed with the consent or connivance of a partner, he as well as the partnership shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.]
- [F11(9) The Schedule contains special rules relating to providers of information society services.]

#### Textual Amendments

- F1** S. 5(1) substituted (7.10.2004 for E.W., 7.10.2004 for S. for specified purposes, 8.11.2004 for N.I.) by Youth Justice and Criminal Evidence Act 1999 (c. 23), s. 68(3)(4), **Sch. 2 para. 11(2)** (with Sch. 7); S.S.I. 2004/408, art. 3(c); S.R. 2004/467, art. 2(c); S.I. 2004/2428, art. 2(e)
- F2** Words in s. 5(1) omitted (N.I.) (28.9.2023) by virtue of Justice (Sexual Offences and Trafficking Victims) Act (Northern Ireland) 2022 (c. 19), **ss. 10(2)**, 30(2); S.R. 2023/142, art. 3
- F3** S. 5(1A) inserted (N.I.) (28.9.2023) by Justice (Sexual Offences and Trafficking Victims) Act (Northern Ireland) 2022 (c. 19), **ss. 10(3)**, 30(2); S.R. 2023/142, art. 3
- F4** Words in s. 5(2) substituted (7.10.2004 for E.W., 7.10.2004 for S. for specified purposes, 8.11.2004 for N.I.) by Youth Justice and Criminal Evidence Act 1999 (c. 23), s. 68(3)(4), **Sch. 2 para. 11(3)(a)** (with Sch. 7); S.S.I. 2004/408, art. 3(c); S.R. 2004/467, art. 2(c); S.I. 2004/2428, art. 2(e)
- F5** Words in s. 5(2) repealed (7.10.2004 for E.W., 7.10.2004 for S. for specified purposes, 8.11.2004 for N.I.) by Youth Justice and Criminal Evidence Act 1999 (c. 23), s. 68(3)(4), Sch. 2 para. 11(3)(b), **Sch. 6** (with Sch. 7); S.S.I. 2004/408, art. 3(c)(e); S.R. 2004/467, art. 2(c)(e); S.I. 2004/2428, art. 2(e)(f)
- F6** Words in s. 5(3) inserted (7.10.2004 for E.W., 7.10.2004 for S. for specified purposes, 8.11.2004 for N.I.) by Youth Justice and Criminal Evidence Act 1999 (c. 23), s. 68(3)(4), **Sch. 2 para. 11(4)** (with Sch. 7); S.S.I. 2004/408, art. 3(c); S.R. 2004/467, art. 2(c); S.I. 2004/2428, art. 2(e)
- F7** Words in s. 5(4) inserted (7.10.2004 for E.W., 7.10.2004 for S. for specified purposes, 8.11.2004 for N.I.) by Youth Justice and Criminal Evidence Act 1999 (c. 23), s. 68(3)(4), **Sch. 2 para. 11(5)** (with Sch. 7); S.S.I. 2004/408, art. 3(c); S.R. 2004/467, art. 2(c); S.I. 2004/2428, art. 2(e)

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**Changes to legislation:** There are currently no known outstanding effects for the Sexual Offences (Amendment) Act 1992, Section 5. (See end of Document for details)

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- F8** Words in s. 5(5) substituted (7.10.2004 for E.W., 7.10.2004 for S. for specified purposes, 8.11.2004 for N.I.) by Youth Justice and Criminal Evidence Act 1999 (c. 23), s. 68(3)(4), **Sch. 2 para. 11(6)** (with Sch. 7); S.S.I. 2004/408, art. 3(c); S.R. 2004/467, art. 2(c); S.I. 2004/2428, art. 2(e)
- F9** S. 5(5A) inserted (7.10.2004 for E.W., 7.10.2004 for S. for specified purposes, 8.11.2004 for N.I.) by Youth Justice and Criminal Evidence Act 1999 (c. 23), s. 68(3)(4), **Sch. 2 para. 11(7)** (with Sch. 7); S.S.I. 2004/408, art. 3(c); S.R. 2004/467, art. 2(c); S.I. 2004/2428, art. 2(e)
- F10** S. 5(8) inserted (7.10.2004 for E.W., 7.10.2004 for S. for specified purposes, 8.11.2004 for N.I.) by Youth Justice and Criminal Evidence Act 1999 (c. 23), s. 68(3)(4), **Sch. 2 para. 11(8)** (with Sch. 7); S.S.I. 2004/408, art. 3(c); S.R. 2004/467, art. 2(c); S.I. 2004/2428, art. 2(e)
- F11** S. 5(9) inserted (N.I.) (28.9.2023) by Justice (Sexual Offences and Trafficking Victims) Act (Northern Ireland) 2022 (c. 19), **ss. 11(1)**, 30(2); S.R. 2023/142, art. 3

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**Commencement Information**

- I1** S. 5 wholly in force at 1.8.1992 see s. 8(3) and S.I. 1992/1336, **art. 2**

**Changes to legislation:**

There are currently no known outstanding effects for the Sexual Offences (Amendment) Act 1992, Section 5.