



Criminal Justice and Public Order Act 1994

1994 CHAPTER 33

PART VII

OBSCENITY AND PORNOGRAPHY AND VIDEOS

Obscene publications and indecent photographs of children

84 Indecent pseudo-photographs of children.

- (1) The ^{M1}Protection of Children Act 1978 shall be amended as provided in subsections (2) and (3) below.
- (2) In section 1 (which penalises the taking and distribution of indecent photographs of children and related acts)—
 - (a) in paragraph (a) of subsection (1)—
 - (i) after the word “taken” there shall be inserted the words “ or to make ”, and the words following “child” shall be omitted;
 - (ii) after the word “photograph” there shall be inserted the words “ or pseudo-photograph ”;
 - (b) in paragraphs (b), (c) and (d) of subsection (1), after the word “photographs” there shall be inserted the words “ or pseudo-photographs ”;
 - (c) in subsection (2), after the word “photograph” there shall be inserted the words “ or pseudo-photograph ”; and
 - (d) in paragraphs (a) and (b) of subsection (4), after the word “photographs” there shall be inserted the words “ or pseudo-photographs ”.
- (3) In section 7 (interpretation)—
 - (a) in subsection (3), at the end, there shall be inserted the words “ and so as respects pseudo-photographs ”; and
 - (b) for subsection (4) there shall be substituted the following subsection—

Changes to legislation: *Criminal Justice and Public Order Act 1994, Cross Heading: Obscene publications and indecent photographs of children is up to date with all changes known to be in force on or before 30 March 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*

- “(4) References to a photograph include—
- (a) the negative as well as the positive version; and
 - (b) data stored on a computer disc or by other electronic means which is capable of conversion into a photograph.”
- (c) after subsection (5) there shall be inserted the following subsections—
- “(6) “Child”, subject to subsection (8), means a person under the age of 16.
- (7) “Pseudo-photograph” means an image, whether made by computer-graphics or otherwise howsoever, which appears to be a photograph.
- (8) If the impression conveyed by a pseudo-photograph is that the person shown is a child, the pseudo-photograph shall be treated for all purposes of this Act as showing a child and so shall a pseudo-photograph where the predominant impression conveyed is that the person shown is a child notwithstanding that some of the physical characteristics shown are those of an adult.
- (9) References to an indecent pseudo-photograph include—
- (a) a copy of an indecent pseudo-photograph; and
 - (b) data stored on a computer disc or by other electronic means which is capable of conversion into a pseudo-photograph.”
- (4) Section 160 of the ^{M2}Criminal Justice Act 1988 (which penalises the possession of indecent photographs of children) shall be amended as follows—
- (a) in subsection (1), after the word “photograph” there shall be inserted the words “ or pseudo-photograph ” and the words from “(meaning” to “16)” shall be omitted; and
 - (b) in paragraphs (a), (b) and (c) of subsection (2), after the word “photograph” there shall be inserted the words “ or pseudo-photograph ”; and
 - (c) in subsection (5), the reference to the coming into force of that section shall be construed, for the purposes of the amendments made by this subsection, as a reference to the coming into force of this subsection.
- (5) The ^{M3}Civic Government (Scotland) Act 1982 shall be amended as provided in subsections (6) and (7) below.
- (6) In section 52 (which, for Scotland, penalises the taking and distribution of indecent photographs of children and related acts)—
- (a) in paragraph (a) of subsection (1)—
 - (i) after the word “taken” there shall be inserted the words “ or makes ”; and
 - (ii) for the words from “of a” to the end there shall be substituted the words “ or pseudo-photograph of a child ”;
 - (b) in paragraphs (b), (c) and (d) of subsection (1), after the word “photograph” there shall be inserted the words “ or pseudo-photograph ”; and
 - (c) in subsection (2), at the beginning there shall be inserted “ In subsection (1) above “child” means, subject to subsection (2B) below, a person under the age of 16; and ”;
 - (d) after subsection (2), there shall be added—

Changes to legislation: Criminal Justice and Public Order Act 1994, Cross Heading: Obscene publications and indecent photographs of children is up to date with all changes known to be in force on or before 30 March 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

- “(2A) In this section, “pseudo-photograph” means an image, whether produced by computer-graphics or otherwise howsoever, which appears to be a photograph.
- (2B) If the impression conveyed by a pseudo-photograph is that the person shown is a child, the pseudo-photograph shall be treated for all purposes of this Act as showing a child and so shall a pseudo-photograph where the predominant impression conveyed is that the person shown is a child notwithstanding that some of the physical characteristics shown are those of an adult.
- (2C) In this section, references to an indecent pseudo-photograph include—
- (a) a copy of an indecent pseudo-photograph;
 - (b) data stored on a computer disc or by other electronic means which is capable of conversion into a pseudo-photograph.”.
- (e) in subsection (3)—
- (i) in paragraph (a), for the words “3 months” there shall be substituted the words “6 months”; and
 - (ii) in paragraph (b), for the words “two years” there shall be substituted the words “3 years”;
- (f) in subsection (4), and in paragraphs (a) and (b) of subsection (5), after the word “photograph” there shall be inserted the words “or pseudo-photograph”; and
- (g) for subsection (8)(c) there shall be substituted—
- “(c) references to a photograph include—
 - (i) the negative as well as the positive version; and
 - (ii) data stored on a computer disc or by other electronic means which is capable of conversion into a photograph.”.
- (7) In section 52A (which, for Scotland, penalises the possession of indecent photographs of children)—
- (a) in subsection (1), for the words from “of a” to “16)” there shall be substituted the words “or pseudo-photograph of a child”;
 - (b) in subsection (2), in each of paragraphs (a) to (c), after the word “photograph” there shall be inserted the words “or pseudo-photograph”;
 - (c) in subsection (3)—
 - (i) after the word “to” there shall be inserted the words “imprisonment for a period not exceeding 6 months or to”;
 - (ii) at the end there shall be added the words “or to both.”; - (d) in subsection (4), after the word “(2)” there shall be inserted the words “to (2C)”.
- (8) The ^{M4}Protection of Children (Northern Ireland) Order 1978 shall be amended as provided in subsections (9) and (10) below.
- (9) In Article 2 (interpretation)—
- (a) in paragraph (2)—
 - (i) in the definition of “child”, after “child” there shall be inserted the words “subject to paragraph (3)(c)”;

Changes to legislation: *Criminal Justice and Public Order Act 1994, Cross Heading: Obscene publications and indecent photographs of children is up to date with all changes known to be in force on or before 30 March 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*

(ii) for the definition of “photograph” there shall be substituted the following definitions—

““indecent pseudo-photograph” includes—

- (a) a copy of an indecent pseudo-photograph; and
- (b) data stored on a computer disc or by other electronic means which is capable of conversion into a pseudo-photograph;

“photograph” includes—

- (a) the negative as well as the positive version; and
- (b) data stored on a computer disc or by other electronic means which is capable of conversion into a photograph;

“pseudo-photograph” means an image, whether made by computer-graphics or otherwise howsoever, which appears to be a photograph;”;

(b) in paragraph (3)—

- (i) in sub-paragraph (a), after the word “photograph” there shall be inserted the words “or pseudo-photograph”;
- (ii) in sub-paragraph (b), at the end, there shall be inserted the words “and so as respects pseudo-photographs; and”;
- (iii) after sub-paragraph (b) there shall be inserted the following sub-paragraph—

“(c) if the impression conveyed by a pseudo-photograph is that the person shown is a child, the pseudo-photograph shall be treated as showing a child and so shall a pseudo-photograph where the predominant impression conveyed is that the person shown is a child notwithstanding that some of the physical characteristics shown are those of an adult.”.

(10) In Article 3 (which, for Northern Ireland, penalises the taking and distribution of indecent photographs of children and related acts)—

- (a) in sub-paragraph (a) of paragraph (1)—
 - (i) after the word “taken” there shall be inserted the words “ or to make ”;
 - (ii) after the word “photograph” there shall be inserted the words “ or pseudo-photograph ”;
- (b) in sub-paragraphs (b), (c) and (d) of paragraph (1), after the word “photographs” there shall be inserted the words “ or pseudo-photographs ”;
- (c) in sub-paragraphs (a) and (b) of paragraph (3), after the word “photographs” there shall be inserted the words “ or pseudo-photographs ”.

(11) Article 15 of the ^{M5}Criminal Justice (Evidence, etc.) (Northern Ireland) Order 1988 (which, for Northern Ireland, penalises the possession of indecent photographs of children) shall be amended as follows—

- (a) in paragraph (1), after the word “photograph” there shall be inserted the words “ or pseudo-photograph ” and the words from “(meaning” to “16)” shall be omitted;
- (b) in sub-paragraphs (a), (b) and (c) of paragraph (2), after the word “photograph” there shall be inserted the words “ or pseudo-photograph ”; and

Changes to legislation: Criminal Justice and Public Order Act 1994, Cross Heading: Obscene publications and indecent photographs of children is up to date with all changes known to be in force on or before 30 March 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

- (c) in paragraph (6), the reference to the coming into operation of that Article shall be construed, for the purposes of the amendments made by this subsection, as a reference to the coming into force of this subsection.

Extent Information

E1 S. 84(1) to (4) extends to England and Wales only; s. 84(5) to (7) extends to Scotland only; s. 84(8) to (11) extends to Northern Ireland only see s. 172(7)(13)(15).

Marginal Citations

M1 1978 c. 37.
M2 1988 c. 33.
M3 1982 c. 45.
M4 S.I. 1978/1047 (N.I. 17).
M5 S.I. 1988/1847 (N.I. 17).

85 Arrestable offences to include certain offences relating to obscenity or indecency.

- (1) ^{F1}
(2) ^{F1}
(3) ^{F1}
(4) ^{F2}
(5) ^{F2}
(6) ^{F2}

Extent Information

E2 S. 85(1) to (3) extends to England and Wales only; s. 85(4) to (6) extends to Northern Ireland only see s. 172(7)(15)

Textual Amendments

F1 S. 85(1)-(3) repealed (1.1.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 174, 178, [Sch. 17 Pt. 2](#); S.I. 2005/3495, [art. 2\(1\)\(u\)\(xxvii\)](#) (subject to [art. 2](#))
F2 S. 85(4)-(6) repealed (1.3.2007) by The Police and Criminal Evidence (Amendment) (Northern Ireland) Order 2007 (S.I. 2007/288 N.I. 2), arts. 1(2), 41, {Sch. 2}

86 Indecent photographs of children: sentence of imprisonment.

- (1) In section 160(3) of the ^{M6}Criminal Justice Act 1988 (which makes a person convicted of certain offences relating to indecent photographs of children liable to a fine not exceeding level 5 on the standard scale) there shall be inserted after the word “to” the words “ imprisonment for a term not exceeding six months or ” and at the end the words “ , or both ”.
- (2) In Article 15(3) of the ^{M7}Criminal Justice (Evidence, etc.) (Northern Ireland) Order 1988 (which makes a person convicted in Northern Ireland of certain offences relating to indecent photographs of children liable to a fine not exceeding level 5 on the

Changes to legislation: Criminal Justice and Public Order Act 1994, Cross Heading: Obscene publications and indecent photographs of children is up to date with all changes known to be in force on or before 30 March 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

standard scale) there shall be inserted after the word “to” the words “ imprisonment for a term not exceeding 6 months or ” and at the end the words “ , or both ”.

Extent Information

E3 S. 86(1) extends to England and Wales only; s. 86(2) extends to Northern Ireland only see s. 172(7) (15)

Marginal Citations

M6 1988 c. 33.
M7 S.I. 1988/1847 (N.I. 17).

87 Publishing, displaying, selling or distributing etc. obscene material in Scotland: sentence of imprisonment.

In section 51(3) of the ^{M8}Civic Government (Scotland) Act 1982 (which makes persons convicted in summary proceedings in Scotland of certain offences relating to obscene material liable, among other penalties, to imprisonment for a period not exceeding 3 months and persons convicted there on indictment of such offences liable, among other penalties, to imprisonment for a period not exceeding 2 years), for the words “3 months” there shall be substituted the words “ 6 months ” and for the words “two years” there shall be substituted the words “ 3 years ”.

Marginal Citations

M8 1982 c. 45.

Changes to legislation:

Criminal Justice and Public Order Act 1994, Cross Heading: Obscene publications and indecent photographs of children is up to date with all changes known to be in force on or before 30 March 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.

[View outstanding changes](#)

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. 51(10)(a)(ia) inserted by [2003 c. 44 Sch. 36 para. 11\(3\)](#)