



# Sexual Offences (Protected Material) Act 1997

1997 CHAPTER 39

PROSPECTIVE

## *Introductory*

### **1 Meaning of “protected material”.**

- (1) In this Act “protected material”, in relation to proceedings for a sexual offence, means a copy (in whatever form) of any of the following material, namely—
- (a) a statement relating to that or any other sexual offence made by any victim of the offence (whether the statement is recorded in writing or in any other form),
  - (b) a photograph or pseudo-photograph of any such victim, or
  - (c) a report of a medical examination of the physical condition of any such victim, which is a copy given by the prosecutor to any person under this Act.
- (2) For the purposes of subsection (1) a person is, in relation to any proceedings for a sexual offence, a victim of that offence if—
- (a) the charge, summons or indictment by which the proceedings are instituted names that person as a person in relation to whom that offence was committed; or
  - (b) that offence can, in the prosecutor’s opinion, be reasonably regarded as having been committed in relation to that person;
- and a person is, in relation to any such proceedings, a victim of any other sexual offence if that offence can, in the prosecutor’s opinion, be reasonably regarded as having been committed in relation to that person.
- (3) In this Act, where the context so permits (and subject to subsection (4))—
- (a) references to any protected material include references to any part of any such material; and
  - (b) references to a copy of any such material include references to any part of any such copy.

*Status: This version of this cross heading contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Sexual Offences (Protected Material) Act 1997, Cross Heading: Introductory. (See end of Document for details)*

(4) Nothing in this Act—

(a) so far as it refers to a defendant making any copy of—

- (i) any protected material, or
- (ii) a copy of any such material,

applies to a manuscript copy which is not a verbatim copy of the whole of that material or copy; or

(b) so far as it refers to a defendant having in his possession any copy of any protected material, applies to a manuscript copy made by him which is not a verbatim copy of the whole of that material.

## 2 Meaning of other expressions.

(1) In this Act—

“contracted out prison” means a contracted out prison within the meaning of Part IV of the <sup>M1</sup>Criminal Justice Act 1991;

“defendant”, in relation to any proceedings for a sexual offence, means any person charged with that offence (whether or not he has been convicted);

“governor”, in relation to a contracted out prison, means the director of the prison;

“inform” means inform in writing;

“legal representative”, in relation to a defendant, means [<sup>F1</sup> a person who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to an activity which constitutes the exercise of a right of audience or the conduct of litigation (within the meaning of that Act) and who is acting for the defendant in connection with any proceedings for the sexual offence in question;

“photograph” and “pseudo-photograph” shall be construed in accordance with section 7(4) and (7) of the <sup>M2</sup>Protection of Children Act 1978;

“prison” means any prison, [<sup>F2</sup> or young offender institution] which is under the general superintendence of, or is provided by, the Secretary of State under the <sup>M3</sup>Prison Act 1952, including a contracted out prison;

“proceedings” means (subject to subsection (2)) criminal proceedings;

“the prosecutor”, in relation to any proceedings for a sexual offence, means any person acting as prosecutor (whether an individual or a body);

“relevant proceedings”, in relation to any material which has been disclosed by the prosecutor under this Act, means any proceedings for the purposes of which it has been so disclosed or any further proceedings for the sexual offence in question;

“sexual offence” means one of the offences listed in the Schedule to this Act.

(2) For the purposes of this Act references to proceedings for a sexual offence include references to—

- (a) any appeal or application for leave to appeal brought or made by or in relation to a defendant in such proceedings;
- (b) any application made to the Criminal Cases Review Commission for the reference under section 9 or 11 of the <sup>M4</sup>Criminal Appeal Act 1995 of any conviction, verdict, finding or sentence recorded or imposed in relation to any such defendant; and

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- (c) any petition to the Secretary of State requesting him to recommend the exercise of Her Majesty's prerogative of mercy in relation to any such defendant.
- (3) In this Act, in the context of the prosecutor giving a copy of any material to any person—
- (a) references to the prosecutor include references to a person acting on behalf of the prosecutor; and
  - (b) where any such copy falls to be given to the defendant's legal representative, references to the defendant's legal representative include references to a person acting on behalf of the defendant's legal representative.

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#### Textual Amendments

- F1** Words in s. 2(1) substituted (1.1.2010) by [Legal Services Act 2007 \(c. 29\)](#), s. 211(2), [Sch. 21 para. 123](#) (with [ss. 29, 192, 193](#)); [S.I. 2009/3250](#), art. 2(h)
- F2** S. 2(1): words in definition of "prison" substituted (*prosp.*) by [2000 c. 43](#), ss. 74, 80(1), [Sch. 7 Pt. II para. 134](#)

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#### Marginal Citations

- M1** [1991 c. 53](#).
- M2** [1978 c. 37](#).
- M3** [1952 c. 52](#).
- M4** [1995 c. 35](#).

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