

# CRIMINAL JUSTICE AND IMMIGRATION ACT 2008

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## EXPLANATORY NOTES

### SUMMARY

#### **Part 5: Criminal law**

43. [Sections 63 to 67](#) make it an offence to possess pornographic images that depict acts which threaten a person's life, acts which result in or are likely to result in serious injury to a person's anus, breasts or genitals, bestiality or necrophilia; they also provide for the exclusion of classified films etc. and set out defences and the penalties for the offence. Section 68 and Schedule 14 are intended to ensure that the operation of the extreme pornography offence is consistent with the UK's commitments under the E-Commerce Directive (Directive [2000/31/EC](#)) with regard to services provided by the Internet industry.
44. [Sections 69 and 70](#) extend the definition of an indecent photograph in the Protection of Children Act 1978 (and the equivalent Northern Ireland legislation) to include a tracing or other image derived from a photograph.
45. [Section 71](#) increases the maximum penalty for publication of obscene material and for the possession of such material for gain under the Obscene Publications Act 1959.
46. [Section 72](#) substitutes a new section 72 into the Sexual Offences Act 2003 which allows for the prosecution of sexual offences against children committed abroad. In respect of the prosecution of UK nationals, it removes the requirement that the act committed must have been illegal in the country where it took place. This requirement remains for the prosecution of UK residents. For both nationals and residents this section provides that extra-territorial jurisdiction will apply for the offences specified where they are committed against children under 18, whereas currently it applies only to offences against children under 16. This section will support signature and ratification of the Council of Europe Convention on the Protection of Children Against Sexual Exploitation and Abuse.
47. [Section 73](#) introduces Schedule 15 which amends the offence of meeting a child following sexual grooming. Currently it is an offence if, following two earlier communications, an adult over 18 travels to meet a child under 16, with the intention of committing a sexual offence against that child. As a result of the amendment made by this Schedule an offence will be committed by an adult who has arranged a meeting with a child following two earlier communications, when the child travels to meet the offender. It also makes it an offence for an adult over 18 to arrange a meeting with a child under 16, following two earlier communications, if he intends to commit a sexual offence against that child during or after the meeting. Schedule 15 also amends the Sexual Offences Act 2003 and the Adoption Act 1976 as regards sexual offences and adoption.
48. [Section 74](#) and Schedule 16 extend the offences of inciting hatred against people on religious grounds to cover hatred against people on grounds of sexual orientation.

*These notes refer to the Criminal Justice and Immigration  
Act 2008 (c.4) which received Royal Assent on 8 May 2008*

49. [Section 75](#) and Schedule 17 amend the Nuclear Material (Offences) Act 1983 (the 1983 Act) and the Customs and Excise Management Act 1979 in order to give effect to amendments made in 2005 to the Convention on the Physical Protection of Nuclear Material. The amendments made to the 1983 Act create a number of new criminal offences, including offences relating to damage to the environment and to the importation and exportation of nuclear material.
50. [Section 76](#) clarifies the law on the use of force in self-defence or the prevention of crime.
51. [Section 77](#) confers a power on the Secretary of State to make an order altering the maximum penalty for an offence under section 55 of the Data Protection Act 1998.
52. [Section 78](#) inserts a new defence into section 55 of the Data Protection Act 1998. The defence applies when a person acts for journalistic, literary or artistic purposes with a view to the publication of journalistic, literary or artistic material and in the reasonable belief that their actions were justified as being in the public interest.
53. [Section 79](#) abolishes the common law offences of blasphemy and blasphemous libel in England and Wales.