



Serious Crime Act 2015

2015 CHAPTER 9

PART 5

PROTECTION OF CHILDREN AND OTHERS

Protection of children

66 Child cruelty offence

- (1) Section 1 of the Children and Young Persons Act 1933 (cruelty to persons under 16) is amended as follows.
- (2) In subsection (1)—
 - (a) after “ill-treats” insert “(whether physically or otherwise)”;
 - (b) after “ill-treated” insert “(whether physically or otherwise)”.
- (3) In that subsection, for the words from “(including” to “derangement)” substitute “(whether the suffering or injury is of a physical or a psychological nature)”.
- (4) In that subsection, for “a misdemeanour” substitute “an offence”.
- (5) In subsection (2), in paragraph (b)—
 - (a) after “to bed” insert “or at any later time before the suffocation”;
 - (b) after “drink” insert “or a prohibited drug”.
- (6) After that subsection insert—

“(2A) The reference in subsection (2)(b) to the infant being “in bed” with another (“the adult”) includes a reference to the infant lying next to the adult in or on any kind of furniture or surface being used by the adult for the purpose of sleeping (and the reference to the time when the adult “went to bed” is to be read accordingly).

Status: This is the original version (as it was originally enacted).

- (2B) A drug is a prohibited drug for the purposes of subsection (2)(b) in relation to a person if the person’s possession of the drug immediately before taking it constituted an offence under section 5(2) of the Misuse of Drugs Act 1971.”

67 Sexual communication with a child

After section 15 of the Sexual Offences Act 2003 insert—

“15A Sexual communication with a child

- (1) A person aged 18 or over (A) commits an offence if—
- (a) for the purpose of obtaining sexual gratification, A intentionally communicates with another person (B),
 - (b) the communication is sexual or is intended to encourage B to make (whether to A or to another) a communication that is sexual, and
 - (c) B is under 16 and A does not reasonably believe that B is 16 or over.
- (2) For the purposes of this section, a communication is sexual if—
- (a) any part of it relates to sexual activity, or
 - (b) a reasonable person would, in all the circumstances but regardless of any person’s purpose, consider any part of the communication to be sexual;
- and in paragraph (a) “sexual activity” means an activity that a reasonable person would, in all the circumstances but regardless of any person’s purpose, consider to be sexual.
- (3) A person guilty of an offence under this section is liable—
- (a) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine or both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years.”

68 Child sexual exploitation

- (1) The Sexual Offences Act 2003 is amended as set out in subsections (2) to (6).
- (2) For the heading before section 47 substitute “*Sexual exploitation of children*”.
- (3) In section 48 (headed “Causing or inciting child prostitution or pornography”)—
 - (a) in the heading, for “**child prostitution or pornography**” substitute “**sexual exploitation of a child**”;
 - (b) in subsection (1)(a), for “to become a prostitute, or to be involved in pornography,” substitute “to be sexually exploited”.
- (4) In section 49 (headed “Controlling a child prostitute or a child involved in pornography”)—
 - (a) in the heading, for “**prostitute or a child involved in pornography**” substitute “**in relation to sexual exploitation**”;
 - (b) in subsection (1)(a), for “prostitution or involvement in pornography” substitute “sexual exploitation”.
- (5) In section 50 (headed “Arranging or facilitating child prostitution or pornography”)—

Status: This is the original version (as it was originally enacted).

- (a) in the heading, for “**child prostitution or pornography**” substitute “**sexual exploitation of a child**”;
 - (b) in subsection (1)(a), for “prostitution or involvement in pornography” substitute “sexual exploitation”.
- (6) In section 51 (interpretation of sections 48 to 50)—
- (a) omit subsection (1);
 - (b) for subsection (2) substitute—
 - “(2) For the purposes of sections 48 to 50, a person (B) is sexually exploited if—
 - (a) on at least one occasion and whether or not compelled to do so, B offers or provides sexual services to another person in return for payment or a promise of payment to B or a third person, or
 - (b) an indecent image of B is recorded;and “sexual exploitation” is to be interpreted accordingly.”
- (7) In section 1 of the Street Offences Act 1959 (loitering or soliciting for purposes of prostitution), in subsection (1), after “person” insert “aged 18 or over”.

69 Possession of paedophile manual

- (1) It is an offence to be in possession of any item that contains advice or guidance about abusing children sexually.
- (2) It is a defence for a person (D) charged with an offence under this section—
- (a) to prove that D had a legitimate reason for being in possession of the item;
 - (b) to prove that—
 - (i) D had not read, viewed or (as appropriate) listened to the item, and
 - (ii) D did not know, and had no reason to suspect, that it contained advice or guidance about abusing children sexually; or
 - (c) to prove that—
 - (i) the item was sent to D without any request made by D or on D’s behalf, and
 - (ii) D did not keep it for an unreasonable time.
- (3) A person guilty of an offence under this section is liable—
- (a) on summary conviction in England and Wales, to imprisonment for a term not exceeding 12 months or to a fine, or to both;
 - (b) on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 6 months or to a fine not exceeding the statutory maximum, or to both;
 - (c) on conviction on indictment, to imprisonment for a term not exceeding 3 years or to a fine, or to both.
- (4) Proceedings for an offence under this section may be brought—
- (a) in England and Wales, only by or with the consent of the Director of Public Prosecutions;
 - (b) in Northern Ireland, only by or with the consent of the Director of Public Prosecutions for Northern Ireland.

Status: This is the original version (as it was originally enacted).

- (5) In England and Wales, the following provisions of the Protection of Children Act 1978 apply in relation to prohibited items as they apply in relation to indecent photographs of children (within the meaning of that Act)—
- (a) section 4 (entry, search and seizure);
 - (b) the Schedule (forfeiture of photographs).
- (6) In Northern Ireland, the following provisions of the Protection of Children (Northern Ireland) Order 1978 ([S.I. 1978/1047 \(N.I. 17\)](#)) apply in relation to prohibited items as they apply in relation to indecent photographs of children (within the meaning of that Order)—
- (a) Article 4 (entry, search and seizure);
 - (b) the Schedule (forfeiture of photographs).
- (7) Schedule 3 makes special provision in connection with the operation of subsection (1) in relation to persons providing information society services within the meaning of that Schedule.
- (8) In this section—
- “abusing children sexually” means doing anything that constitutes—
 - (a) an offence under Part 1 of the Sexual Offences Act 2003, or under Part 2, 3 or 4 of the Sexual Offences (Northern Ireland) Order 2008 ([S.I. 2008/1769 \(N.I. 2\)](#)), against a person under 16, or
 - (b) an offence under section 1 of the Protection of Children Act 1978, or under Article 3 of the Protection of Children (Northern Ireland) Order 1978, involving indecent photographs (but not pseudo-photographs),or doing anything outside England and Wales or Northern Ireland that would constitute such an offence if done in England and Wales or Northern Ireland;
 - “item” includes anything in which information of any description is recorded;
 - “prohibited item” means an item within subsection (1).