



# Sexual Offences (Protected Material) Act 1997

1997 CHAPTER 39

PROSPECTIVE

*Supplementary*

## **8 Offences.**

- (1) Where any material has been disclosed under this Act in connection with any proceedings for a sexual offence, it is an offence for the defendant—
  - (a) to have the protected material, or any copy of it, in his possession otherwise than while inspecting it or the copy in circumstances such as are described in section 4(2)(a) or 5(4)(a), or
  - (b) to give that material or any copy of it, or otherwise reveal its contents, to any other person.
- (2) Where any protected material, or any copy of any such material, has been shown or given to any person in accordance with section 4(2)(b)(i) or (ii) or section 5(7) or (8), it is an offence for that person to give any copy of that material or otherwise reveal its contents—
  - (a) to any person other than the defendant, or
  - (b) to the defendant otherwise than in circumstances such as are described in section 4(2)(a) or 5(4)(a).
- (3) Subsections (1) and (2) apply whether or not any relevant proceedings are current or in contemplation (and references to the defendant shall be construed accordingly).
- (4) A person guilty of an offence under this section is liable—
  - (a) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum or both;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both.

*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: Supplementary. (See end of Document for details)*

- (5) Where a person is charged with an offence under this section relating to any protected material or copy of any such material, it is 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 material or copy in question was protected material or (as the case may be) a copy of any such material.
- (6) The court before which a person is tried for an offence under this section may (whether or not he is convicted of that offence) make an order requiring him to return any protected material, or any copy of any such material, in his possession to the prosecutor.
- (7) Nothing in subsection (1) or (2) shall be taken to apply to—
- (a) any disclosure made in the course of any proceedings before a court or in any report of any such proceedings, or
  - (b) any disclosure made or copy given by a person when returning any protected material, or a copy of any such material, to the prosecutor or the defendant's legal representative;

and accordingly nothing in section 4 or 5 shall be read as precluding the making of any disclosure or the giving of any copy in circumstances falling within paragraph (a) or (as the case may be) paragraph (b) above.

## 9 Modification and amendment of other enactments.

<sup>F1</sup>(1) .....

- (2) Despite section 20(1) of the Criminal Procedure and Investigations Act 1996 (disclosure provisions of the Act not affected by other statutory duties), section 3(3) to (5) of that Act (manner of disclosure) shall not apply in relation to any disclosure required by section 3, 7 or 9 of that Act if section 3(1) above applies in relation to that disclosure.
- (3) Sections 17 and 18 of that Act (confidentiality of disclosed information) shall not apply to any material disclosed under this Act in accordance with section 3(2) or (3) above.
- (4) At the end of section 1 of the Criminal Procedure and Investigations Act 1996 (application of Part I of that Act) there shall be added—
- “(6) In this Part—
- (a) subsections (3) to (5) of section 3 (in their application for the purposes of [<sup>F2</sup>section 3 or 7A]), and
  - (b) sections 17 and 18,
- have effect subject to subsections (2) and (3) of section 9 of the Sexual Offences (Protected Material) Act 1997 (by virtue of which those provisions of this Act do not apply in relation to disclosures regulated by that Act).”

### Textual Amendments

- F1** S. 9(1) repealed (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 3 paras. 67, **37 Pt. 4**; S.I. 2012/1320, art. 4(1)(c)(d)(2)(3) (with art. 5) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4); S.I. 2012/2574, art. 2(2)(3)(c)(d), Sch. (with arts. 34) (as amended (4.11.2012) by S.I. 2012/2761, art. 2) (with S.I. 2013/1103, art. 4); S.I. 2013/1103, art. 2(1)(c)(d)(2)(3) (with arts. 34)

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**F2** Words in s. 9(4) substituted (4.4.2005 for E.W., 15.7.2005 for N.I.) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 36 para. 39](#); [S.I. 2005/950](#), art. 2(1), [Sch. 1 para. 43\(a\)](#) (with [Sch. 2](#)) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (14.7.2008) by [2008 c. 4](#), [Sch. 26 para. 78](#), [Sch. 28 Pt. 2](#); [S.I. 2008/1586](#), [Sch. 1 paras. 48\(s\), 50\(2\)\(d\)](#); (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10](#), [Sch. 14 para. 17](#); [S.I. 2012/2906](#), art. 2(l)); [S.I. 2005/1817](#), art. 2(1)(2)(i) (with [art. 2\(3\)](#))

## **10 Financial provision.**

There shall be paid out of money provided by Parliament any increase attributable to this Act in the sums payable out of money so provided under any other Act.

## **11 Short title, commencement and extent.**

- (1) This Act may be cited as the Sexual Offences (Protected Material) Act 1997.
- (2) This Act shall come into force on such day as the Secretary of State may appoint by order made by statutory instrument.
- (3) Nothing in this Act applies to any proceedings for a sexual offence where the defendant was charged with the offence before the commencement of this Act.
- (4) This Act extends to England and Wales only.

**Status:**

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**Changes to legislation:**

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