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CHAPTER 146A

PROTECTION OF CHILDREN

ARRANGEMENT OF SECTIONS

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CHAPTER 146A
PROTECTION OF CHILDREN

1990-36

An Act to provide for the protection of children from exploitation by preventing the making of indecent photographs of them and matters related thereto.

Commencement

[20th December, 1990]

Short title

1. This Act may be cited as the *Protection of Children Act*.

Interpretation

2. In this Act,

"child" means a person under the age of 18;

"film" includes any form of video-recording;

"indecent photograph" includes an indecent film, a copy of an indecent photograph or film, and an indecent photograph that is part of a film that shows children;

"photograph" includes the negative of the photograph;

"premises" includes any stall or vehicle.

Indecent photograph of children

3. (1) Any person who

- (a) takes or permits to be taken any indecent photograph of a child; or children.
- (b) distributes or shows an indecent photograph of a child; or
- (c) has in his possession indecent photographs of a child whether or not with a view to their being distributed or shown by that person or others; or
- (d) publishes or causes to be published any advertisement likely to be understood as conveying that the advertiser distributes or shows indecent photographs of children or intends to do so,

is guilty of an offence.

(2) For the purposes of this Act, a person is to be regarded as distributing an indecent photograph if that person parts with possession of the photograph, or exposes or offers it for acquisition by another person.

(3) Proceedings for an offence under this Act shall not be instituted except by or with the consent of the Director of Public Prosecutions.

Defences.

4. Where a person is charged with an offence under paragraph (b) or (c) of section 3(1), it shall be a defence for the person to prove

- (a) that he had a legitimate reason for distributing or showing the photographs or having them in his possession, as the case may be; or
- (b) that he had not himself seen the photographs and did not know, nor had any cause to suspect them to be indecent.

Evidence.

5. On a charge of an offence under paragraph (a) of section 3 (1), the wife or husband of the accused may be called as a witness for the prosecution or the defence; and if so called, notwithstanding any other law to the contrary, is a compellable witness.

Offences be corporations

6. (1) Where a body corporate is found guilty of an offence under this Act and it is proved that the offence occurred with the consent or connivance of, or was attributable to any neglect on the part of any director, manager, secretary or other officer of the body, or any person who was purporting to act in any such capacity, that officer or person as well as the body corporate, shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished in accordance with the provisions of this Act.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

Entry, search and seizure

7. (1) Where a magistrate is satisfied by information on oath laid by a member of the Police Force that

- (a) there are reasonable grounds for suspecting that indecent photographs of children are in premises within the jurisdiction of the magistrate; and

- (b) the photographs referred to under paragraph (a)
 - (i) are or have been taken there,
 - (ii) are or have been shown there, or
 - (iii) are kept there with a view to their being distributed or shown,

the magistrate may issue a warrant authorising the member to enter, if need be by force, and to search the premises within 14 days from the date of the warrant.

(2) Where a warrant has been issued to a member of the Police Force under subsection (1), the member may seize and remove any articles that he believes with reasonable cause to be or to include indecent photographs of children taken or shown on the premises or kept there with a view to their being distributed or shown.

Forfeiture

8. (1) Where indecent photographs of children are seized under section 7 (2) and a person is convicted under section 3 of an offence in respect of those photographs, the court shall order the photographs to be forfeited.

(2) An order made under subsection (1), including an order made on appeal, shall not take effect until the expiration of the ordinary time within which an appeal may be instituted or, where the appeal is duly instituted, until the appeal is finally decided or abandoned.

Punishment

9. (1) A person who is convicted of an offence under this Act Punishment, is liable

- (a) on conviction on indictment to imprisonment for a term of 5 years; or
- (b) on summary conviction to a term of 2 years.