



# Protection of Children Act 1978

## 1978 CHAPTER 37

### [<sup>F1</sup>1B Exception for criminal proceedings, investigations etc.

- (1) In proceedings for an offence under section 1(1)(a) of making an indecent photograph or pseudo-photograph of a child, the defendant is not guilty of the offence if [<sup>F2</sup>the defendant] proves that—
- (a) it was necessary for [<sup>F3</sup>the defendant] to make the photograph or pseudo-photograph for the purposes of the prevention, detection or investigation of crime, or for the purposes of criminal proceedings, in any part of the world,
  - (b) at the time of the offence charged [<sup>F2</sup>the defendant] was a member of the Security Service [<sup>F4</sup>or the Secret Intelligence Service], and it was necessary for [<sup>F3</sup>the defendant] to make the photograph or pseudo-photograph for the exercise of any of the functions of [<sup>F5</sup>that Service], <sup>F6</sup>...
  - (c) at the time of the offence charged [<sup>F2</sup>the defendant] was a member of GCHQ , and it was necessary for [<sup>F3</sup>the defendant] to make the photograph or pseudo-photograph for the exercise of any of the functions of GCHQ [<sup>F7</sup> , or
  - (d) the defendant—
    - (i) was at the time of the offence charged a member of OFCOM, employed or engaged by OFCOM, or assisting OFCOM in the exercise of any of their online safety functions (within the meaning of section 235 of the Online Safety Act 2023), and
    - (ii) made the photograph or pseudo-photograph for the purposes of OFCOM's exercise of any of those functions.]

- (2) In this section “ GCHQ ” has the same meaning as in the Intelligence Services Act 1994. ]

[<sup>F8</sup>(3) In this section “OFCOM” means the Office of Communications.]

#### Textual Amendments

- F1** S. 1B inserted (1.5.2004) by [Sexual Offences Act 2003 \(c. 42\)](#) , **ss. 46(1)** , 141 ; S.I. 2004/874 , art. 2
- F2** Words in s. 1B(1) substituted (26.10.2023) by [Online Safety Act 2023 \(c. 50\)](#) , **ss. 214(2)(a)** , 240(4)
- F3** Words in s. 1B(1) substituted (26.10.2023) by [Online Safety Act 2023 \(c. 50\)](#) , **ss. 214(2)(b)** , 240(4)

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**Changes to legislation:** There are currently no known outstanding effects for the Protection of Children Act 1978, Section 1B. (See end of Document for details)

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- F4** Words in s. 1B(1)(b) inserted (8.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), **ss. 69(2)(a)**, 153(2)(b)
- F5** Words in s. 1B(1)(b) substituted (8.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), **ss. 69(2)(b)**, 153(2)(b)
- F6** Word in s. 1B(1)(b) omitted (26.10.2023) by virtue of [Online Safety Act 2023 \(c. 50\)](#), **ss. 214(2)(c)**, 240(4)
- F7** S. 1B(1)(d) and word inserted (26.10.2023) by [Online Safety Act 2023 \(c. 50\)](#), **ss. 214(2)(d)**, 240(4)
- F8** S. 1B(3) inserted (26.10.2023) by [Online Safety Act 2023 \(c. 50\)](#), **ss. 214(3)**, 240(4)

**Changes to legislation:**

There are currently no known outstanding effects for the Protection of Children Act 1978, Section 1B.