



# Criminal Justice and Immigration Act 2008

## 2008 CHAPTER 4

### PART 5

#### CRIMINAL LAW

##### *Pornography etc.*

#### **63 Possession of extreme pornographic images**

- (1) It is an offence for a person to be in possession of an extreme pornographic image.
- (2) An “extreme pornographic image” is an image which is both—
  - (a) pornographic, and
  - (b) an extreme image.
- (3) An image is “pornographic” if it is of such a nature that it must reasonably be assumed to have been produced solely or principally for the purpose of sexual arousal.
- (4) Where (as found in the person's possession) an image forms part of a series of images, the question whether the image is of such a nature as is mentioned in subsection (3) is to be determined by reference to—
  - (a) the image itself, and
  - (b) (if the series of images is such as to be capable of providing a context for the image) the context in which it occurs in the series of images.
- (5) So, for example, where—
  - (a) an image forms an integral part of a narrative constituted by a series of images, and
  - (b) having regard to those images as a whole, they are not of such a nature that they must reasonably be assumed to have been produced solely or principally for the purpose of sexual arousal,

*Status: This version of this part contains provisions that are prospective.*

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the image may, by virtue of being part of that narrative, be found not to be pornographic, even though it might have been found to be pornographic if taken by itself.

[<sup>F1</sup>(5A) In relation to possession of an image in England and Wales, an “extreme image” is an image which—

- (a) falls within subsection (7) or (7A), and
- (b) is grossly offensive, disgusting or otherwise of an obscene character.]

(6) [<sup>F2</sup>In relation to possession of an image in Northern Ireland, an] “extreme image” is an image which—

- (a) falls within subsection (7) [<sup>F3</sup>or (7A)] , and
- (b) is grossly offensive, disgusting or otherwise of an obscene character.

(7) An image falls within this subsection if it portrays, in an explicit and realistic way, any of the following—

- (a) an act which threatens a person's life,
- (b) an act which results, or is likely to result, in serious injury to a person's anus, breasts or genitals,
- (c) an act which involves sexual interference with a human corpse, or
- (d) a person performing an act of intercourse or oral sex with an animal (whether dead or alive),

and a reasonable person looking at the image would think that any such person or animal was real.

[<sup>F4</sup>(7A) An image falls within this subsection if it portrays, in an explicit and realistic way, either of the following—

- (a) an act which involves the non-consensual penetration of a person's vagina, anus or mouth by another with the other person's penis, or
- (b) an act which involves the non-consensual sexual penetration of a person's vagina or anus by another with a part of the other person's body or anything else,

and a reasonable person looking at the image would think that the persons were real.

(7B) For the purposes of subsection (7A)—

- (a) penetration is a continuing act from entry to withdrawal;
- (b) “vagina” includes vulva.]

(8) In this section “image” means—

- (a) a moving or still image (produced by any means); or
- (b) data (stored by any means) which is capable of conversion into an image within paragraph (a).

(9) In this section references to a part of the body include references to a part surgically constructed (in particular through gender reassignment surgery).

(10) Proceedings for an offence under this section may not be instituted—

- (a) in England and Wales, except by or with the consent of the Director of Public Prosecutions; or
- (b) in Northern Ireland, except by or with the consent of the Director of Public Prosecutions for Northern Ireland.

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#### Annotations:

##### Amendments (Textual)

- F1** S. 63(5A) inserted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), [ss. 37\(2\)\(a\)](#), 95(1); [S.I. 2015/778](#), [art. 3](#), [Sch. 1 para. 31](#) (with [Sch. 2 para. 1](#))
- F2** Words in s. 63(6) substituted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), [ss. 37\(2\)\(b\)](#), 95(1); [S.I. 2015/778](#), [art. 3](#), [Sch. 1 para. 31](#) (with [Sch. 2 para. 1](#))
- F3** Words in s. 63(6) inserted (N.I.) (13.5.2016) by [Justice Act \(NorthernIreland\) 2016 \(c. 21\)](#), [ss. 50\(2\)](#), 61(1)
- F4** S. 63(7A)(7B) inserted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), [ss. 37\(2\)\(c\)](#), 95(1); [S.I. 2015/778](#), [art. 3](#), [Sch. 1 para. 31](#) (with [Sch. 2 para. 1](#))

##### Commencement Information

- I1** S. 63 in force at 26.1.2009 by [S.I. 2008/2993](#), [art. 2\(2\)\(a\)](#)

#### 64 Exclusion of classified films etc.

- (1) Section 63 does not apply to excluded images.
- (2) An “excluded image” is an image which forms part of a series of images contained in a recording of the whole or part of a classified work.
- (3) But such an image is not an “excluded image” if—
  - (a) it is contained in a recording of an extract from a classified work, and
  - (b) it is of such a nature that it must reasonably be assumed to have been extracted (whether with or without other images) solely or principally for the purpose of sexual arousal.
- (4) Where an extracted image is one of a series of images contained in the recording, the question whether the image is of such a nature as is mentioned in subsection (3)(b) is to be determined by reference to—
  - (a) the image itself, and
  - (b) (if the series of images is such as to be capable of providing a context for the image) the context in which it occurs in the series of images;and section 63(5) applies in connection with determining that question as it applies in connection with determining whether an image is pornographic.
- (5) In determining for the purposes of this section whether a recording is a recording of the whole or part of a classified work, any alteration attributable to—
  - (a) a defect caused for technical reasons or by inadvertence on the part of any person, or
  - (b) the inclusion in the recording of any extraneous material (such as advertisements),is to be disregarded.
- (6) Nothing in this section is to be taken as affecting any duty of a designated authority to have regard to section 63 (along with other enactments creating criminal offences) in determining whether a video work is suitable for a classification certificate to be issued in respect of it.
- (7) In this section—

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“classified work” means (subject to subsection (8)) a video work in respect of which a classification certificate has been issued by a designated authority (whether before or after the commencement of this section);

“classification certificate” and “video work” have the same meanings as in the Video Recordings Act 1984 (c. 39);

“designated authority” means an authority which has been designated by the Secretary of State under section 4 of that Act;

“extract” includes an extract consisting of a single image;

“image” and “pornographic” have the same meanings as in section 63;

“recording” means any disc, tape or other device capable of storing data electronically and from which images may be produced (by any means).

(8) Section 22(3) of the Video Recordings Act 1984 (effect of alterations) applies for the purposes of this section as it applies for the purposes of that Act.

#### Annotations:

#### Commencement Information

**I2** S. 64 in force at 26.1.2009 by S.I. 2008/2993, art. 2(2)(b)

## 65 Defences: general

(1) Where a person is charged with an offence under section 63, it is a defence for the person to prove any of the matters mentioned in subsection (2).

(2) The matters are—

- (a) that the person had a legitimate reason for being in possession of the image concerned;
- (b) that the person had not seen the image concerned and did not know, nor had any cause to suspect, it to be an extreme pornographic image;
- (c) that the person—
  - (i) was sent the image concerned without any prior request having been made by or on behalf of the person, and
  - (ii) did not keep it for an unreasonable time.

(3) In this section “extreme pornographic image” and “image” have the same meanings as in section 63.

#### Annotations:

#### Commencement Information

**I3** S. 65 in force at 26.1.2009 by S.I. 2008/2993, art. 2(2)(c)

## 66 Defence: participation in consensual acts

[<sup>F5</sup>(A1) Subsection (A2) applies where in England and Wales—

- (a) a person (“D”) is charged with an offence under section 63, and
- (b) the offence relates to an image that portrays an act or acts within subsection (7) (a) to (c) or (7A) of that section (but does not portray an act within subsection (7)(d) of that section).

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- (A2) It is a defence for D to prove—
- (a) that D directly participated in the act or any of the acts portrayed, and
  - (b) that the act or acts did not involve the infliction of any non-consensual harm on any person, and
  - (c) if the image portrays an act within section 63(7)(c), that what is portrayed as a human corpse was not in fact a corpse, and
  - (d) if the image portrays an act within section 63(7A), that what is portrayed as non-consensual penetration was in fact consensual.]
- (1) [<sup>F6</sup>Subsection (2)] applies where [<sup>F7</sup>in Northern Ireland] —
- (a) a person (“D”) is charged with an offence under section 63, and
  - (b) the offence relates to an image that portrays an act or acts [<sup>F8</sup>within subsection (7)(a) to (c) or (7A) of that section (but does not portray an act within subsection (7)(d) of that section).]
- (2) It is a defence for D to prove—
- (a) that D directly participated in the act or any of the acts portrayed, and
  - (b) that the act or acts did not involve the infliction of any non-consensual harm on any person, and
  - (c) if the image portrays an act within section 63(7)(c), that what is portrayed as a human corpse was not in fact a corpse<sup>[F9]</sup>; and
  - (d) if the image portrays an act within section 63(7A), that what is portrayed as non-consensual penetration was in fact consensual.]
- (3) For the purposes of this section harm inflicted on a person is “non-consensual” harm if—
- (a) the harm is of such a nature that the person cannot, in law, consent to it being inflicted on himself or herself; or
  - (b) where the person can, in law, consent to it being so inflicted, the person does not in fact consent to it being so inflicted.

#### Annotations:

##### Amendments (Textual)

- F5** S. 66(A1)(A2) inserted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), **ss. 37(3)(a)**, 95(1); [S.I. 2015/778](#), **art. 3**, **Sch. 1 para. 31** (with **Sch. 2 para. 1**)
- F6** Words in s. 66(1) substituted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), **ss. 37(3)(b)(i)**, 95(1); [S.I. 2015/778](#), **art. 3**, **Sch. 1 para. 31** (with **Sch. 2 para. 1**)
- F7** Words in s. 66(1) inserted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), **ss. 37(3)(b)(ii)**, 95(1); [S.I. 2015/778](#), **art. 3**, **Sch. 1 para. 31** (with **Sch. 2 para. 1**)
- F8** Words in s. 66(1)(b) substituted (N.I.) (13.5.2016) by [Justice Act \(NorthernIreland\) 2016 \(c. 21\)](#), **ss. 50(3)(a)**, 61(1)
- F9** S. 66(2)(d) and preceding word inserted (N.I.) (13.5.2016) by [Justice Act \(NorthernIreland\) 2016 \(c. 21\)](#), **ss. 50(3)(b)**, 61(1)

##### Commencement Information

- I4** S. 66 in force at 26.1.2009 by [S.I. 2008/2993](#), **art. 2(2)(d)**

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## 67 Penalties etc. for possession of extreme pornographic images

- (1) This section has effect where a person is guilty of an offence under section 63.
- (2) <sup>F10</sup>If the offence relates to an image that portrays any relevant act (with or without other acts) , the offender is liable—
- (a) on summary conviction, to imprisonment for a term not exceeding the relevant period or a fine not exceeding the statutory maximum or both;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding 3 years or a fine or both.
- (3) If the offence relates to an image that does not portray any <sup>F11</sup>relevant act] , the offender is liable—
- (a) on summary conviction, to imprisonment for a term not exceeding the relevant period or a fine not exceeding the statutory maximum or both;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine or both.
- (4) In subsection (2)(a) or (3)(a) “the relevant period” means—
- (a) in relation to England and Wales, 12 months;
  - (b) in relation to Northern Ireland, 6 months.
- <sup>F12</sup>(5) In this section “relevant act” means—
- (a) in relation to England and Wales, an act within section 63(7)(a) or (b) or (7A) (a) or (b);
  - (b) in relation to Northern Ireland, an act within section 63(7)(a) or (b) <sup>F13</sup>or (7A) (a) or (b).]

### Annotations:

#### Amendments (Textual)

- F10** Words in s. 67(2) substituted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\), ss. 37\(4\)\(a\), 95\(1\); S.I. 2015/778, art. 3, Sch. 1 para. 31 \(with Sch. 2 para. 1\)](#)
- F11** Words in s. 67(3) substituted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\), ss. 37\(4\)\(b\), 95\(1\); S.I. 2015/778, art. 3, Sch. 1 para. 31 \(with Sch. 2 para. 1\)](#)
- F12** S. 67(5) inserted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\), ss. 37\(4\)\(c\), 95\(1\); S.I. 2015/778, art. 3, Sch. 1 para. 31 \(with Sch. 2 para. 1\)](#)
- F13** Words in s. 67(5)(b) added (N.I.) (13.5.2016) by [Justice Act \(NorthernIreland\) 2016 \(c. 21\), ss. 50\(4\), 61\(1\)](#)

#### Commencement Information

- I5** S. 67 in force at 26.1.2009 by [S.I. 2008/2993, art. 2\(2\)\(e\)](#)

## 68 Special rules relating to providers of information society services

Schedule 14 makes special provision in connection with the operation of section 63 in relation to persons providing information society services within the meaning of that Schedule.

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**Annotations:**

**Commencement Information**

**I6** S. 68 in force at 26.1.2009 by S.I. 2008/2993, art. 2(2)(f)

**69 Indecent photographs of children: England and Wales**

- (1) The Protection of Children Act 1978 (c. 37) is amended as follows.
- (2) In section 1B(1)(b) (exception for members of the Security Service)—
  - (a) after “Security Service” insert “ or the Secret Intelligence Service ”;
  - (b) for “the Service” substitute “ that Service ”.
- (3) After section 7(4) (meaning of photograph), insert—

“(4A) References to a photograph also include—

  - (a) a tracing or other image, whether made by electronic or other means (of whatever nature)—
    - (i) which is not itself a photograph or pseudo-photograph, but
    - (ii) which is derived from the whole or part of a photograph or pseudo-photograph (or a combination of either or both); and
  - (b) data stored on a computer disc or by other electronic means which is capable of conversion into an image within paragraph (a);

and subsection (8) applies in relation to such an image as it applies in relation to a pseudo-photograph.”
- (4) In section 7(9)(b) (meaning of indecent pseudo-photograph), for “a pseudo-photograph” substitute “ an indecent pseudo-photograph ”.

**70 Indecent photographs of children: Northern Ireland**

- (1) The Protection of Children (Northern Ireland) Order 1978 (S.I. 1978/1047 (N.I. 17)) is amended as follows.
- (2) In Article 2(2) (interpretation) in paragraph (b) of the definition of “indecent pseudo-photograph”, for “a pseudo-photograph” substitute “ an indecent pseudo-photograph ”.
- (3) After Article 2(2) insert—

“(2A) In this Order, references to a photograph also include—

  - (a) a tracing or other image, whether made by electronic or other means (of whatever nature)—
    - (i) which is not itself a photograph or pseudo-photograph, but
    - (ii) which is derived from the whole or part of a photograph or pseudo-photograph (or a combination of either or both); and
  - (b) data stored on a computer disc or by other electronic means which is capable of conversion into an image within paragraph (a);

and paragraph (3)(c) applies in relation to such an image as it applies in relation to a pseudo-photograph.”
- (4) In article 3A(1)(b) (exception for members of the Security Service)—

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- (a) after “Security Service” insert “ or the Secret Intelligence Service ”;
- (b) for “the Service” substitute “ that Service ”.

## 71 Maximum penalty for publication etc. of obscene articles

In section 2(1)(b) of the Obscene Publications Act 1959 (c. 66) (maximum penalty on indictment for publication etc. of obscene articles) for “three years” substitute “ five years ”.

### Annotations:

#### Commencement Information

**I7** S. 71 in force at 26.1.2009 by S.I. 2008/2993, art. 2(2)(g)

## *Sexual offences*

## 72 Offences committed outside the United Kingdom

(1) For section 72 of the Sexual Offences Act 2003 (c. 42) substitute—

### “72 Offences outside the United Kingdom

(1) If—

- (a) a United Kingdom national does an act in a country outside the United Kingdom, and
- (b) the act, if done in England and Wales or Northern Ireland, would constitute a sexual offence to which this section applies,

the United Kingdom national is guilty in that part of the United Kingdom of that sexual offence.

(2) If—

- (a) a United Kingdom resident does an act in a country outside the United Kingdom,
- (b) the act constitutes an offence under the law in force in that country, and
- (c) the act, if done in England and Wales or Northern Ireland, would constitute a sexual offence to which this section applies,

the United Kingdom resident is guilty in that part of the United Kingdom of that sexual offence.

(3) If—

- (a) a person does an act in a country outside the United Kingdom at a time when the person was not a United Kingdom national or a United Kingdom resident,
- (b) the act constituted an offence under the law in force in that country,
- (c) the act, if done in England and Wales or Northern Ireland, would have constituted a sexual offence to which this section applies, and
- (d) the person meets the residence or nationality condition at the relevant time,



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proceedings may be brought against the person in that part of the United Kingdom for that sexual offence as if the person had done the act there.

- (4) The person meets the residence or nationality condition at the relevant time if the person is a United Kingdom national or a United Kingdom resident at the time when the proceedings are brought.
- (5) An act punishable under the law in force in any country constitutes an offence under that law for the purposes of subsections (2) and (3) however it is described in that law.
- (6) The condition in subsection (2)(b) or (3)(b) is to be taken to be met unless, not later than rules of court may provide, the defendant serves on the prosecution a notice—
  - (a) stating that, on the facts as alleged with respect to the act in question, the condition is not in the defendant's opinion met,
  - (b) showing the grounds for that opinion, and
  - (c) requiring the prosecution to prove that it is met.
- (7) But the court, if it thinks fit, may permit the defendant to require the prosecution to prove that the condition is met without service of a notice under subsection (6).
- (8) In the Crown Court the question whether the condition is met is to be decided by the judge alone.
- (9) In this section—

“country” includes territory;

“United Kingdom national” means an individual who is—

  - (a) a British citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen;
  - (b) a person who under the British Nationality Act 1981 is a British subject; or
  - (c) a British protected person within the meaning of that Act;

“United Kingdom resident” means an individual who is resident in the United Kingdom.
  - (10) Schedule 2 lists the sexual offences to which this section applies.”
  - (2) Schedule 2 to that Act (list of sexual offences to which section 72 applies) is amended as follows.
  - (3) In paragraph 1 (offences under the law of England and Wales)—
    - (a) for paragraphs (a) and (b) substitute—
      - “(a) an offence under any of sections 5 to 19, 25 and 26 and 47 to 50;
      - (b) an offence under any of sections 1 to 4, 30 to 41 and 61 where the victim of the offence was under 18 at the time of the offence;”;
    - (b) in paragraph (c), for “16” substitute “ 18 ”; and
    - (c) in paragraph (d), omit “in relation to a photograph or pseudo-photograph showing a child under 16”.
  - (4) In paragraph 2 (offences under the law of Northern Ireland)—

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- (a) in sub-paragraph (1)(c)(iv), for “17” substitute “ 18 ”; and
- (b) in sub-paragraph (2), for “17” substitute “ 18 ”.

**Annotations:**

**Commencement Information**

**I8** S. 72 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 34

**73 Grooming and adoption**

Schedule 15—

- (a) amends section 15 of the Sexual Offences Act 2003 (c. 42) (meeting a child following sexual grooming etc.),
- (b) amends that Act in relation to adoption, and
- (c) amends the Adoption Act 1976 (c. 36) in relation to offences under sections 64 and 65 of the Sexual Offences Act 2003.

**Annotations:**

**Commencement Information**

**I9** S. 73 partly in force; s. 73 not in force at Royal Assent; s. 73 in force for certain purposes at 8.7.2008, see s. 153(2)(e)(3)

**I10** S. 73 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 35

*Hatred on the grounds of sexual orientation*

**74 Hatred on the grounds of sexual orientation**

Schedule 16—

- (a) amends Part 3A of the Public Order Act 1986 (c. 64) (hatred against persons on religious grounds) to make provision about hatred against a group of persons defined by reference to sexual orientation, and
- (b) makes minor amendments of that Part.

**Annotations:**

**Commencement Information**

**I11** S. 74 partly in force at Royal Assent, see s. 153(1)(j)(3)

**I12** S. 74 in force at 23.3.2010 in so far as not already in force by S.I. 2010/712, art. 2(a)

*Offences relating to nuclear material and nuclear facilities*

**75 Offences relating to the physical protection of nuclear material and nuclear facilities**

- (1) Part 1 of Schedule 17 amends the Nuclear Material (Offences) Act 1983 (c. 18) to create—

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- (a) further offences relating to the physical protection of nuclear material, and
  - (b) offences relating to the physical protection of nuclear facilities,
- and makes other amendments to that Act.
- (2) Part 2 of that Schedule makes related amendments to the Customs and Excise Management Act 1979 (c. 2).

**Annotations:**

**Commencement Information**

**I13** S. 75 in force at 30.11.2009 by S.I. 2009/3074, art. 2(i)

*Self-defence etc.*

**76 Reasonable force for purposes of self-defence etc.**

- (1) This section applies where in proceedings for an offence—
- (a) an issue arises as to whether a person charged with the offence (“D”) is entitled to rely on a defence within subsection (2), and
  - (b) the question arises whether the degree of force used by D against a person (“V”) was reasonable in the circumstances.
- (2) The defences are—
- (a) the common law defence of self-defence; <sup>[F14]</sup>and
  - <sup>[F15]</sup>(aa) the common law defence of defence of property; and
  - (b) the defences provided by section 3(1) of the Criminal Law Act 1967 (c. 58) or section 3(1) of the Criminal Law Act (Northern Ireland) 1967 (c. 18 (N.I.)) (use of force in prevention of crime or making arrest).
- (3) The question whether the degree of force used by D was reasonable in the circumstances is to be decided by reference to the circumstances as D believed them to be, and subsections (4) to (8) also apply in connection with deciding that question.
- (4) If D claims to have held a particular belief as regards the existence of any circumstances—
- (a) the reasonableness or otherwise of that belief is relevant to the question whether D genuinely held it; but
  - (b) if it is determined that D did genuinely hold it, D is entitled to rely on it for the purposes of subsection (3), whether or not—
    - (i) it was mistaken, or
    - (ii) (if it was mistaken) the mistake was a reasonable one to have made.
- (5) But subsection (4)(b) does not enable D to rely on any mistaken belief attributable to intoxication that was voluntarily induced.
- <sup>[F16]</sup>(5A) In a householder case, the degree of force used by D is not to be regarded as having been reasonable in the circumstances as D believed them to be if it was grossly disproportionate in those circumstances.]
- (6) <sup>[F17]</sup>In a case other than a householder case,] the degree of force used by D is not to be regarded as having been reasonable in the circumstances as D believed them to be if it was disproportionate in those circumstances.

*Status: This version of this part contains provisions that are prospective.*

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- [<sup>F18</sup>(6A) In deciding the question mentioned in subsection (3), a possibility that D could have retreated is to be considered (so far as relevant) as a factor to be taken into account, rather than as giving rise to a duty to retreat.]
- (7) In deciding the question mentioned in subsection (3) the following considerations are to be taken into account (so far as relevant in the circumstances of the case)—
- (a) that a person acting for a legitimate purpose may not be able to weigh to a nicety the exact measure of any necessary action; and
  - (b) that evidence of a person's having only done what the person honestly and instinctively thought was necessary for a legitimate purpose constitutes strong evidence that only reasonable action was taken by that person for that purpose.
- (8) [<sup>F19</sup>Subsections (6A) and (7) are] not to be read as preventing other matters from being taken into account where they are relevant to deciding the question mentioned in subsection (3).
- [<sup>F20</sup>(8A) For the purposes of this section “a householder case” is a case where—
- (a) the defence concerned is the common law defence of self-defence,
  - (b) the force concerned is force used by D while in or partly in a building, or part of a building, that is a dwelling or is forces accommodation (or is both),
  - (c) D is not a trespasser at the time the force is used, and
  - (d) at that time D believed V to be in, or entering, the building or part as a trespasser.
- (8B) Where—
- (a) a part of a building is a dwelling where D dwells,
  - (b) another part of the building is a place of work for D or another person who dwells in the first part, and
  - (c) that other part is internally accessible from the first part,
- that other part, and any internal means of access between the two parts, are each treated for the purposes of subsection (8A) as a part of a building that is a dwelling.
- (8C) Where—
- (a) a part of a building is forces accommodation that is living or sleeping accommodation for D,
  - (b) another part of the building is a place of work for D or another person for whom the first part is living or sleeping accommodation, and
  - (c) that other part is internally accessible from the first part,
- that other part, and any internal means of access between the two parts, are each treated for the purposes of subsection (8A) as a part of a building that is forces accommodation.
- (8D) Subsections (4) and (5) apply for the purposes of subsection (8A)(d) as they apply for the purposes of subsection (3).
- (8E) The fact that a person derives title from a trespasser, or has the permission of a trespasser, does not prevent the person from being a trespasser for the purposes of subsection (8A).
- (8F) In subsections (8A) to (8C)—
- “building” includes a vehicle or vessel, and

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“forces accommodation” means service living accommodation for the purposes of Part 3 of the Armed Forces Act 2006 by virtue of section 96(1) (a) or (b) of that Act.]

(9) This section [<sup>F21</sup>, except so far as making different provision for householder cases,] is intended to clarify the operation of the existing defences mentioned in subsection (2).

(10) In this section—

- (a) “legitimate purpose” means—
- (i) the purpose of self-defence under the common law, [<sup>F22</sup>or]
  - [<sup>F23</sup>(ia) the purpose of defence of property under the common law, or]
  - (ii) the prevention of crime or effecting or assisting in the lawful arrest of persons mentioned in the provisions referred to in subsection (2)(b);
- (b) references to self-defence include acting in defence of another person; and
- (c) references to the degree of force used are to the type and amount of force used.

#### Annotations:

##### Amendments (Textual)

- F14** Word in s. 76(2)(a) omitted (E.W. and in relation to service offences) (14.5.2013) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), **ss. 148(2)**, 151(1) (with [ss. 148\(6\)](#), 152(6)(7)); S.I. 2013/1127, art. 2
- F15** S. 76(2)(aa) inserted (E.W. and in relation to service offences) (14.5.2013) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), **ss. 148(2)**, 151(1) (with [ss. 148\(6\)](#), 152(6)(7)); S.I. 2013/1127, art. 2
- F16** S. 76(5A) inserted (E.W. and in relation to service offences) (25.4.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), **ss. 43(2)**, 61(11)(b)(15)(16) (with s. 43(6))
- F17** Words in s. 76(6) inserted (E.W. and in relation to service offences) (25.4.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), **ss. 43(3)**, 61(11)(b)(15)(16) (with s. 43(6))
- F18** S. 76(6A) inserted (E.W. and in relation to service offences) (14.5.2013) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), **ss. 148(3)**, 151(1) (with [ss. 148\(6\)](#), 152(6)(7)); S.I. 2013/1127, art. 2
- F19** Words in s. 76(8) substituted (E.W. and in relation to service offences) (14.5.2013) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), **ss. 148(4)**, 151(1) (with [ss. 148\(6\)](#), 152(6)(7)); S.I. 2013/1127, art. 2
- F20** S. 76(8A)-(8F) inserted (E.W. and in relation to service offences) (25.4.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), **ss. 43(4)**, 61(11)(b)(15)(16) (with s. 43(6))
- F21** Words in s. 76(9) inserted (E.W. and in relation to service offences) (25.4.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), **ss. 43(5)**, 61(11)(b)(15)(16) (with s. 43(6))
- F22** Word in s. 76(10)(a) omitted (E.W. and in relation to service offences) (14.5.2013) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), **ss. 148(5)**, 151(1) (with [ss. 148\(6\)](#), 152(6)(7)); S.I. 2013/1127, art. 2
- F23** S. 76(10)(a)(ia) inserted (E.W. and in relation to service offences) (14.5.2013) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), **ss. 148(5)**, 151(1) (with [ss. 148\(6\)](#), 152(6)(7)); S.I. 2013/1127, art. 2

##### Modifications etc. (not altering text)

- C1** S. 76(8B)-(8F) applied (with modifications) by [Dangerous Dogs Act 1991 \(c. 65\)](#), s. 3(1B) (as inserted (E.W.) (13.5.2014) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), **ss. 106(2)(b)**, 185(1); S.I. 2014/949, art. 3, Sch. para. 6)

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#### Commencement Information

**I14** S. 76 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 36

### *Unlawfully obtaining etc. personal data*

#### **F24** 77 Power to alter penalty for unlawfully obtaining etc. personal data

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#### Annotations:

#### Amendments (Textual)

**F24** S. 77 omitted (25.5.2018) by virtue of Data Protection Act 2018 (c. 12), s. 212(1), Sch. 19 para. 150(a) (with ss. 117, 209, 210); S.I. 2018/625, reg. 2(1)(g)

PROSPECTIVE

#### **F25** 78 New defence for purposes of journalism and other special purposes

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#### Annotations:

#### Amendments (Textual)

**F25** S. 78 omitted (25.5.2018) by virtue of Data Protection Act 2018 (c. 12), s. 212(1), Sch. 19 para. 150(b) (with ss. 117, 209, 210); S.I. 2018/625, reg. 2(1)(g)

### *Blasphemy*

#### **79** Abolition of common law offences of blasphemy and blasphemous libel

- (1) The offences of blasphemy and blasphemous libel under the common law of England and Wales are abolished.
- (2) In section 1 of the Criminal Libel Act 1819 (60 Geo. 3 & 1 Geo. 4 c. 8) (orders for seizure of copies of blasphemous or seditious libel) the words “any blasphemous libel, or” are omitted.
- (3) In sections 3 and 4 of the Law of Libel Amendment Act 1888 (c. 64) (privileged matters) the words “blasphemous or” are omitted.
- (4) Subsections (2) and (3) (and the related repeals in Schedule 28) extend to England and Wales only.

**Status:**

This version of this part contains provisions that are prospective.

**Changes to legislation:**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Sch. 7 para. 5A and cross-heading inserted by [2008 c. 25 Sch. 1 para. 90\(3\)](#)