



Criminal Law Act 1977

1977 CHAPTER 45

PART IV

MISCELLANEOUS PROVISIONS

53 Amendments of Obscene Publications Act 1959 with respect to cinematograph exhibitions

- (1) In the proviso to section 1(3) of the Obscene Publications Act 1959 (which excludes from the scope of that Act anything done in the course of a cinematograph exhibition taking place otherwise than in a private house to which the public are not admitted and anything done in the course of television or sound broadcasting) the words from " a cinematograph exhibition " to " in the course of " shall be omitted.
- (2) In section 2 of that Act (prohibition of publication of obscene matter) at the end of subsection (3) there shall be inserted the following subsection:—

“(3A) Proceedings for an offence under this section shall not be instituted except by or with the consent of the Director of Public Prosecutions in any case where the article in question is a moving picture film of a width of not less than sixteen millimetres and the relevant publication or the only other publication which followed or could reasonably have been expected to follow from the relevant publication took place or (as the case may be) was to take place in the course of a cinematograph exhibition; and in this subsection " the relevant publication " means—

- (a) in the case of any proceedings under this section for publishing an obscene article, the publication in respect of which the defendant would be charged if the proceedings were brought; and
 - (b) in the case of any proceedings under this section for having an obscene article for publication for gain, the publication which, if the proceedings were brought, the defendant would be alleged to have had in contemplation.”
- (3) In section 2 of that Act after subsection (4) there shall be inserted the following subsection:—

Status: This is the original version (as it was originally enacted).

“(4A) Without prejudice to subsection (4) above, a person shall not be proceeded against for an offence at common law—

- (a) in respect of a cinematograph exhibition or anything said or done in the course of a cinematograph exhibition, where it is of the essence of the common law offence that the exhibition or, as the case may be, what was said or done was obscene, indecent, offensive, disgusting or injurious to morality; or
- (b) in respect of an agreement to give a cinematograph exhibition or to cause anything to be said or done in the course of such an exhibition where the common law offence consists of conspiring to corrupt public morals or to do any act contrary to public morals or decency.”

(4) At the end of section 2 of that Act there shall be added the following subsection:—

“(7) In this section " cinematograph exhibition " means an exhibition of moving pictures produced on a screen by means which include the projection of light.”

(5) In section 3 of that Act (which among other things makes provision for the forfeiture of obscene articles kept for publication for gain) at the beginning of subsection (3) there shall be inserted the words " Subject to subsection (3A) of this section " and at the end of that subsection there shall be inserted the following subsection:—

“(3A) Without prejudice to the duty of a court to make an order for the forfeiture of an article where section 1(4) of the Obscene Publications Act 1964 applies (orders made on conviction), in a case where by virtue of subsection (3A) of section 2 of this Act proceedings under the said section 2 for having an article for publication for gain could not be instituted except by or with the consent of the Director of Public Prosecutions, no order for the forfeiture of the article shall be made under this section unless the warrant under which the article was seized was issued on an information laid by or on behalf of the Director of Public Prosecutions.”

(6) In section 4 of that Act (defence of public good) at the beginning of subsection (1) there shall be inserted the words " Subject to subsection (1A) of this section " and at the end of that subsection there shall be inserted the following subsection :—

“(1A) Subsection (1) of this section shall not apply where the article in question is a moving picture film or soundtrack, but—

- (a) a person shall not be convicted of an offence against section 2 of this Act in relation to any such film or soundtrack, and
- (b) an order for forfeiture of any such film or soundtrack shall not be made under section 3 of this Act,

if it is proved that publication of the film or soundtrack is justified as being for the public good on the ground that it is in the interests of drama, opera, ballet or any other art, or of literature or learning.”

(7) At the end of section 4 of that Act there shall be added the following subsection:—

“(3) In this section " moving picture soundtrack " means any sound record designed for playing with a moving picture film, whether incorporated with the film or not.”