

# **SERIOUS CRIME ACT 2015**

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## **EXPLANATORY NOTES**

### **TERRITORIAL EXTENT**

#### **Part 5: Protection of Children and Others**

##### **Commentary on Sections**

##### ***Section 67: Sexual communication with a child***

266. This section inserts a new section 15A into the Sexual Offences Act 2003 which provides for an offence of sexual communication with a child. The offence criminalises conduct where an adult intentionally communicates (for example, by e-mail, text message, written note or orally) with a child under 16 (whom the adult does not reasonably believe to be aged 16 or over) for the purpose of obtaining sexual gratification if the communication is sexual or intended to encourage the child to make a communication that is sexual (new section 15A(1) and (2)). Scenarios likely to be covered by the offence include talking sexually to a child via a chatroom or sending sexually explicit text messages to a child as well as inviting a child to communicate sexually (irrespective of whether the invitation is itself sexual). The new offence is designed to ensure that it does not criminalise, for example, ordinary social or educational interactions between children and adults or communications between young people themselves. The term “sexual gratification” is already used in the context of the offences at sections 11 and 12 of the Sexual Offences Act 2003 which prohibit engaging in sexual activity in the presence of a child and causing a child to watch a sexual act respectively. It is clear from case law in relation to the section 12 offence that this wording would support a successful prosecution where either a defendant made a relevant communication in order to obtain immediate sexual gratification or the obtaining of such gratification was part of a longer term plan or both. The case law also confirms that the term has a wide meaning, stating that the sexual gratification which is alleged may take any of the myriad forms which sexual pleasure or indulgence may take. It is expected that the courts will interpret the reference to sexual gratification in the sexual communication with a child offence in the same way.
267. By virtue of new section 15A(3), and the transitional provision in section 86(14), the maximum penalty on summary conviction of the offence will be six months’ imprisonment. On the commencement of section 154(1) of the Criminal Justice Act 2003, the maximum sentence on summary conviction will rise to 12 months. The maximum penalty on conviction on indictment is two years’ imprisonment.