



Domestic Abuse Act 2021

2021 CHAPTER 17

PART 6

OFFENCES INVOLVING ABUSIVE OR VIOLENT BEHAVIOUR

Disclosure of private sexual photographs and films

69 Threats to disclose private sexual photographs and films with intent to cause distress

- (1) Section 33 of the Criminal Justice and Courts Act 2015 (disclosing private sexual photographs and films with intent to cause distress) is amended as follows.
- (2) In the heading, after “Disclosing” insert “, or threatening to disclose,”.
- (3) For subsection (1) substitute—
 - “(1) A person commits an offence if—
 - (a) the person discloses, or threatens to disclose, a private sexual photograph or film in which another individual (“the relevant individual”) appears,
 - (b) by so doing, the person intends to cause distress to that individual, and
 - (c) the disclosure is, or would be, made without the consent of that individual.”
- (4) In subsection (2)—
 - (a) after “disclose” insert “, or threaten to disclose,”;
 - (b) for “the individual mentioned in subsection (1)(a) and (b)” substitute “the relevant individual”.
- (5) After subsection (2) insert—
 - “(2A) Where a person is charged with an offence under this section of threatening to disclose a private sexual photograph or film, it is not necessary for the prosecution to prove—

Status: This is the original version (as it was originally enacted).

- (a) that the photograph or film referred to in the threat exists, or
 - (b) if it does exist, that it is in fact a private sexual photograph or film.”
- (6) In subsection (4)(a), after “disclosure” insert “, or threat to disclose,”.
- (7) In subsection (5)—
- (a) in paragraph (a), for “the individual mentioned in subsection (1)(a) and (b)” substitute “the relevant individual”;
 - (b) in paragraph (b), for “the individual mentioned in subsection (1)(a) and (b)” substitute “the relevant individual”.
- (8) For subsection (8) substitute—
- “(8) A person charged with an offence under this section is not to be taken to have intended to cause distress by disclosing, or threatening to disclose, a photograph or film merely because that was a natural and probable consequence of the disclosure or threat.”
- (9) In section 35 of that Act (meaning of “private” and “sexual”), in subsection (5)(c), for “the person mentioned in section 33(1)(a) and (b)” substitute “the relevant individual (within the meaning of section 33)”.
- (10) In Schedule 8 to that Act (disclosing private sexual photographs or films: providers of information society services)—
- (a) in the heading, after “Disclosing” insert “, or threatening to disclose,”;
 - (b) in paragraph 5 (exception for hosting)—
 - (i) in sub-paragraph (1), after “sub-paragraph (2)” insert “, (2A)”;
 - (ii) in sub-paragraph (2), in the words before paragraph (a), after “if” insert “, in the case of information which consists of or includes a private sexual photograph or film,”;
 - (iii) after sub-paragraph (2) insert—

“(2A) This sub-paragraph is satisfied if, in the case of information which consists of or includes a threat to disclose a private sexual photograph or film, the service provider had no actual knowledge when the information was provided—

 - (a) that it consisted of or included a threat to disclose a private sexual photograph or film in which another individual appears,
 - (b) that the threat was made with the intention of causing distress to that individual, or
 - (c) that the disclosure would be made without the consent of that individual.”