

Crime and Policing Bill – Report stage

LORD HANSON OF FLINT

[OPC1058]

Clause 65, page 81, line 16, leave out from “person” to end of line 17 and insert –

- “(a) to make or adapt a thing for use for creating, or facilitating the creation of, CSA images;
- (b) to possess, supply or offer to supply a thing (a “CSA image-generator”) which is made or adapted for use for creating, or facilitating the creation of, CSA images.”

Member's explanatory statement

This amendment makes a drafting change to clarify the operation of the CSA image-generator offence.

LORD HANSON OF FLINT

[OPC1054]

Clause 65, page 82, line 1, leave out from “image-generator” to end of line 4 and insert “has the meaning given by subsection (1)(b);”

Member's explanatory statement

This amendment is consequential on my amendment to clause 65, page 81, line 16.

LORD HANSON OF FLINT

[OPC1057]

Clause 65, page 82, leave out lines 13 to 15 and insert –

- “(c) “thing” includes a program, information in electronic form and a service.”

Member's explanatory statement

This amendment is consequential on my amendment to clause 65, page 81, line 16. It also clarifies that a service can be a CSA image-generator.

LORD HANSON OF FLINT

[OPC1061]

Clause 65, page 82, line 19, leave out from “person” to “for” in line 20 and insert “did the act which constituted the offence”

Member's explanatory statement

This amendment is consequential on my amendment to clause 65, page 81, line 16.

LORD HANSON OF FLINT

[OPC1062]

Clause 65, page 82, line 25, leave out from “and” to “for” in line 26 and insert “did the act which constituted the offence”

Member's explanatory statement

This amendment is consequential on my amendment to clause 65, page 81, line 16.

LORD HANSON OF FLINT

[OPC1063]

Clause 65, page 82, line 32, leave out from beginning to “for” in line 33 and insert “did the act which constituted the offence”

Member's explanatory statement

This amendment is consequential on my amendment to clause 65, page 81, line 16.

LORD HANSON OF FLINT

[OPC1189]

Clause 65, page 83, line 21, leave out “obtaining actual knowledge” and insert “knowing”

Member's explanatory statement

This is a minor drafting change.

LORD HANSON OF FLINT

[OPC1077]

Clause 65, page 83, line 34, leave out “the provider had no actual knowledge”

Member's explanatory statement

This is a minor drafting change.

LORD HANSON OF FLINT

[OPC1078]

Clause 65, page 83, line 35, after “provided” insert “the provider did not know”

Member's explanatory statement

This is a minor drafting change.

LORD HANSON OF FLINT

[OPC1079]

Clause 65, page 83, line 37, leave out “obtaining actual knowledge” and insert “knowing”

Member's explanatory statement

This is a minor drafting change.

LORD HANSON OF FLINT

[OPC1087]

Clause 66, page 85, line 17, leave out from “person” to end of line 18 and insert—

- “(a) to make or adapt a thing for use for creating, or facilitating the creation of, CSA images;
- (b) to possess, supply or offer to supply a thing (a “CSA image-generator”) which is made or adapted for use for creating, or facilitating the creation of, CSA images.”

Member's explanatory statement

This amendment makes a drafting change to the operation of the CSA image-generator offence in Northern Ireland.

LORD HANSON OF FLINT

[OPC1088]

Clause 66, page 85, line 37, leave out from “image-generator” to end of line 2 on page 86 and insert “has the meaning given by paragraph (1)(b)”

Member's explanatory statement

This amendment is consequential on my amendment to clause 66, page 85, line 17.

LORD HANSON OF FLINT

[OPC1089]

Clause 66, page 86, leave out lines 11 to 13 and insert—

- “(c) “thing” includes a program, information in electronic form and a service.”

Member's explanatory statement

This amendment is consequential on my amendment to clause 66, page 85, line 17. It also clarifies that a service can be a CSA image-generator.

LORD HANSON OF FLINT

[OPC1090]

Clause 66, page 86, line 17, leave out from “person” to “for” in line 18 and insert “did the act which constituted the offence”

Member's explanatory statement

This amendment is consequential on my amendment to clause 66, page 85, line 17.

LORD HANSON OF FLINT

[OPC1091]

Clause 66, page 86, line 23, leave out from “and” to “for” in line 24 and insert “did the act which constituted the offence”

Member's explanatory statement

This amendment is consequential on my amendment to clause 66, page 85, line 17.

LORD HANSON OF FLINT

[OPC1092]

Clause 66, page 86, line 30, leave out from beginning to “for” in line 31 and insert “did the act which constituted the offence”

Member's explanatory statement

This amendment is consequential on my amendment to clause 66, page 85, line 17.

LORD HANSON OF FLINT

[OPC1093]

Clause 66, page 87, line 21, leave out “obtaining actual knowledge” and insert “knowing”

Member's explanatory statement

This is a minor drafting change.

LORD HANSON OF FLINT

[OPC1094]

Clause 66, page 87, line 34, leave out “the provider had no actual knowledge”

Member's explanatory statement

This is a minor drafting change.

LORD HANSON OF FLINT

[OPC1095]

Clause 66, page 87, line 35, after “provided” insert “the provider did not know”

Member's explanatory statement

This is a minor drafting change.

LORD HANSON OF FLINT

[OPC1096]

Clause 66, page 87, line 37, leave out “obtaining actual knowledge” and insert “knowing”

Member's explanatory statement

This is a minor drafting change.

LORD HANSON OF FLINT

[OPC1097]

Clause 67, page 89, line 9, leave out from “person” to end of line 10 and insert –

- “(a) to make or adapt a thing for use for creating, or facilitating the creation of, CSA images;
- (b) to possess, supply or offer to supply a thing (a “CSA image-generator”) which is made or adapted for use for creating, or facilitating the creation of, CSA images.”

Member's explanatory statement

This amendment makes a drafting change to clarify the operation of the CSA image-generator offence in Scotland.

LORD HANSON OF FLINT

[OPC1098]

Clause 67, page 89, line 29, leave out from “image-generator” to end of line 32 and insert “has the meaning given by subsection (1)(b)”

Member's explanatory statement

This amendment is consequential on my amendment to clause 67, page 89, line 9.

LORD HANSON OF FLINT

[OPC1099]

Clause 67, page 89, leave out lines 36 to 38 and insert –

- “(c) “thing” includes a program, information in electronic form and a service.”

Member's explanatory statement

This amendment is consequential on my amendment to clause 67, page 89, line 9. It also clarifies that a service can be a CSA image-generator.

LORD HANSON OF FLINT

[OPC1100]

Clause 67, page 90, line 4, leave out from “person” to “for” in line 5 and insert “did the act which constituted the offence”

Member's explanatory statement

This amendment is consequential on my amendment to clause 67, page 89, line 9.

LORD HANSON OF FLINT

[OPC1101]

Clause 67, page 90, line 10, leave out from “and” to “for” in line 11 and insert “did the act which constituted the offence”

Member's explanatory statement

This amendment is consequential on my amendment to clause 67, page 89, line 9.

LORD HANSON OF FLINT

[OPC1102]

Clause 67, page 90, line 17, leave out from beginning to “for” in line 18 and insert “did the act which constituted the offence”

Member's explanatory statement

This amendment is consequential on my amendment to clause 67, page 89, line 9.

LORD HANSON OF FLINT

[OPC1103]

Clause 67, page 91, line 5, leave out “obtaining actual knowledge” and insert “knowing”

Member's explanatory statement

This is a minor drafting change.

LORD HANSON OF FLINT

[OPC1104]

Clause 67, page 91, line 18, leave out “the provider had no actual knowledge”

Member's explanatory statement

This is a minor drafting change.

LORD HANSON OF FLINT

[OPC1105]

Clause 67, page 91, line 19, after “provided” insert “the provider did not know”

Member's explanatory statement

This is a minor drafting change.

LORD HANSON OF FLINT

[OPC1106]

Clause 67, page 91, line 21, leave out “obtaining actual knowledge” and insert “knowing”

Member's explanatory statement

This is a minor drafting change.

LORD HANSON OF FLINT

[OPC1107]

Clause 69, page 95, line 17, leave out “obtaining actual knowledge” and insert “knowing”

Member's explanatory statement

This is a minor drafting change.

LORD HANSON OF FLINT

[OPC1108]

Clause 69, page 95, line 30, leave out “the provider had no actual knowledge”

Member's explanatory statement

This is a minor drafting change.

LORD HANSON OF FLINT

[OPC1109]

Clause 69, page 95, line 31, after “provided” insert “the provider did not know”

Member's explanatory statement

This is a minor drafting change.

LORD HANSON OF FLINT

[OPC1110]

Clause 69, page 95, line 33, leave out “obtaining actual knowledge” and insert “knowing”

Member's explanatory statement

This is a minor drafting change.

BARONESS LEVITT

[OPC1180]

Clause 75, page 102, line 28, leave out from ‘to’ to end of line 29 and insert ‘66B, 67 or 67A of that Act (offences relating to exposure, intimate images and voyeurism),’

Member's explanatory statement

This amendment amends subsection (6)(d) so that it does not include offences under sections 66E and 66F of the Sexual Offences Act 2003 (as only adults can be victims of those offences).

LORD HANSON OF FLINT

[OPC1181]

Schedule 10, page 319, line 11, leave out “67A (exposure and voyeurism)” and insert “66B, 67 or 67A (offences relating to exposure, intimate images and voyeurism)”

Member's explanatory statement

This amendment amends paragraph 2(d) so that it does not include offences under sections 66E and 66F of the Sexual Offences Act 2003 (as only adults can be victims of those offences).

BARONESS LEVITT

[OPC1162]

Clause 89, page 113, line 13, after “to” insert “semen-defaced images,”

Member's explanatory statement

This amendment is consequential on my amendment creating a new offence of sharing semen-defaced images (see my amendment to Schedule 11, page 321, line 19).

LORD HANSON OF FLINT

[OPC847]

After Clause 89, insert the following new Clause –

“Purported intimate image generators

- (1) The Sexual Offences Act 2003 is amended as follows.
- (2) After section 66H insert –

“66I Making or supplying purported intimate image generators

- (1) A person commits an offence if the person –
 - (a) makes or adapts a thing, or
 - (b) supplies or offers to supply a thing,for use as a generator of purported intimate images.
- (2) A “generator of purported intimate images” is a thing for creating, or facilitating the creation of, purported intimate images of a person.
- (3) A person makes, adapts, supplies, or offers to supply a thing for use as a generator of purported intimate images if a reasonable person (having regard to all the circumstances) would consider that they do so.
- (4) It is a defence for a person charged with an offence under this section to prove that they took all reasonable steps to prevent the thing being used for creating, or facilitating the creation of, purported intimate images of a person without the person’s consent.
- (5) A person who commits an offence under this section is liable –
 - (a) on summary conviction, to imprisonment for a term not exceeding the general limit in a magistrates’ court or a fine (or both);
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 3 years or a fine (or both).
- (6) Section 72(1) applies in relation to an act which, if done in England and Wales, would constitute an offence under this section as if references to a United Kingdom national included –

- (a) a body incorporated under the law of any part of the United Kingdom, or
 - (b) an unincorporated association formed under the law of any part of the United Kingdom.
- (7) In this section –
- “purported intimate image” of a person, and references to creating a purported intimate image of a person, have the same meaning as in section 66E;
 - “thing” includes a program, information in electronic form and a service.

66J Section 66I: further defences

- (1) It is a defence for a person charged with an offence under section 66I to prove that the person did the act which constituted the offence for the purposes of the prevention, detection or investigation of crime, or for the purposes of criminal proceedings, in any part of the world.
- (2) It is a defence for a person charged with an offence under section 66I to prove that the person –
 - (a) was a member of the Security Service, the Secret Intelligence Service or GCHQ (a “security body”), and
 - (b) did the act which constituted the offence for the purposes of the exercise of any function of the security body.
- (3) “GCHQ” has the meaning given by section 3 of the Intelligence Services Act 1994.
- (4) It is a defence for a person charged with an offence under section 66I to prove that the person –
 - (a) was a member of OFCOM, was employed or engaged by OFCOM, or assisted OFCOM in the exercise of any of its online safety functions, and
 - (b) did the act which constituted the offence for the purposes of OFCOM’s exercise of any of its online safety functions.
- (5) In subsection (4) –
 - (a) “OFCOM” means the Office of Communications;
 - (b) a reference to OFCOM’s “online safety functions” has the meaning given by section 235 of the Online Safety Act 2023.

66K Section 66I: application to internet service providers

- (1) An internet service provider does not commit an offence under section 66I by –
 - (a) providing access to a communication network, or
 - (b) transmitting, in a communication network, information provided by a user, if the provider does not –
 - (i) initiate the transmission,
 - (ii) select the recipient of the transmission, or

- (iii) select or modify the information contained in the transmission.
- (2) The references in subsection (1) to providing access to, or transmitting information in, a communication network include storing the information transmitted so far as the storage –
 - (a) is automatic, intermediate and transient,
 - (b) is solely for the purpose of carrying out the transmission in the network, and
 - (c) is for no longer than is reasonably necessary for the transmission.
 - (3) An internet service provider does not commit an offence under section 66I by storing information provided by a user for transmission in a communication network if –
 - (a) the storage of the information –
 - (i) is automatic, intermediate and temporary, and
 - (ii) is solely for the purpose of making more efficient the onward transmission of the information to other users at their request, and
 - (b) the internet service provider –
 - (i) does not modify the information,
 - (ii) complies with any conditions attached to having access to the information, and
 - (iii) on knowing of a matter within subsection (4), promptly removes the information or disables access to it.
 - (4) The matters within this subsection are that –
 - (a) the information at the initial source of the transmission has been removed from the network,
 - (b) access to it has been disabled, or
 - (c) a court or administrative authority has ordered the removal from the network of, or the disablement of access to, the information.
 - (5) An internet service provider does not commit an offence under section 66I by storing information provided by a user who is not acting under the authority or control of the provider if –
 - (a) when the information was provided the provider did not know that it was, or contained, a generator of purported intimate images, and
 - (b) on knowing that the information was, or contained, a generator of purported intimate images, the provider promptly removed the information or disabled access to it.
 - (6) In this section –
 - “generator of purported intimate images” has the same meaning as in section 66I;
 - “internet service provider” means a provider of –
 - (a) a service that is made available by means of the internet, or

- (b) a service that provides access to the internet;
“user”, in relation to an internet service provider, means a user of a service provided by the internet service provider.

66L Liability for offence under section 66I committed by bodies

- (1) This section applies where an offence under section 66I is committed by a body.
- (2) If the offence is committed with the consent or connivance of –
- (a) a relevant person in relation to the body, or
 - (b) a person purporting to act in the capacity of a relevant person in relation to the body,
- the person (as well as the body) commits the offence and is liable to be proceeded against and punished accordingly.
- (3) In this section –
- “body” means a body corporate, a partnership or an unincorporated association other than a partnership;
 - “relevant person”, in relation to a body, means –
 - (a) in the case of a body corporate other than one whose affairs are managed by its members, a director, manager, secretary or other similar officer of the body;
 - (b) in the case of a limited liability partnership or other body corporate whose affairs are managed by its members, a member who exercises functions of management with respect to it;
 - (c) in the case of a limited partnership, a general partner (within the meaning given by section 3 of the Limited Partnerships Act 1907);
 - (d) in the case of any other partnership, a partner;
 - (e) in the case of an unincorporated association other than a partnership, a person who exercises functions of management with respect to it.”
- (3) In section 79(5) (meaning of references to image of a person), for “and 66G” substitute “, 66G and 66I”.
- (4) In paragraph 1 of Schedule 2 (sexual offences for purposes of section 72), after paragraph (c) insert –
- “(ca) an offence under section 66I;”.
- (5) In Schedule 3 (sexual offences for purposes of Part 2), after paragraph 33B insert –
- “33C An offence under section 66I of this Act (purported intimate image generators), if the offender is sentenced in respect of the offence to imprisonment for a term of at least 12 months.””

Member's explanatory statement

This new clause creates offences of making, adapting, supplying or offering to supply a generator of purported intimate images.

[OPC1161]

Schedule 11, page 321, line 19, at end insert –

“1A After section 66A insert –

“66AA Sharing semen-defaced image

- (1) A person (A) commits an offence if –
 - (a) A intentionally shares a semen-defaced image of another person (B),
 - (b) B does not consent to the sharing of the semen-defaced image, and
 - (c) A does not reasonably believe that B consents.
- (2) A “semen-defaced image” of a person (B) is –
 - (a) a photograph or film which –
 - (i) shows, or appears to show, B, and
 - (ii) has, or appears to have, semen on it or in its immediate vicinity, or
 - (b) a photograph or film of a photograph or film within paragraph (a).
- (3) “Photograph” includes the negative as well as the positive version.
- (4) “Film” means a moving image.
- (5) References to a photograph or film also include –
 - (a) an image, whether made or altered by computer graphics or in any other way, which appears to be a photograph or film,
 - (b) a copy of a photograph, film or image within paragraph (a), and
 - (c) data stored by any means which is capable of conversion into a photograph, film or image within paragraph (a).
- (6) A person “shares” a semen-defaced image if the person, by any means, gives or shows it to another person or makes it available to another person.
- (7) But a provider of an internet service by means of which a semen-defaced image is shared is not to be regarded as a person who shares it.
- (8) For the purposes of subsection (1) –
 - (a) “consent” to the sharing of a semen-defaced image includes general consent covering the particular act of sharing as well as specific consent to the particular act of sharing, and
 - (b) whether a belief is reasonable is to be determined having regard to all the circumstances including any steps A has taken to ascertain whether B consents.

- (9) It is a defence for a person charged with an offence under subsection (1) to prove that the person had a reasonable excuse for sharing the semen-defaced image.
- (10) A person (A) who shares a semen-defaced image of another person (B) does not commit an offence under subsection (1) if –
 - (a) the semen-defaced image had, or A reasonably believes that it had, been previously publicly shared, and
 - (b) B had, or A reasonably believes that A had, consented to the previous sharing.
- (11) A person who commits an offence under subsection (1) is liable on summary conviction to imprisonment for a term not exceeding the maximum term for summary offences or a fine (or both).”

Member's explanatory statement

This amendment creates a new offence of sharing a photograph or film of a person where the image has, or appears to have, semen on it or in its immediate vicinity, without the person's consent.

BARONESS LEVITT

[OPC1182]

Schedule 11, page 321, line 20, leave out “66A” and insert “66AA (inserted by paragraph 1A)”

Member's explanatory statement

This amendment is consequential on my amendment at Schedule 11, page 321, line 19.

BARONESS LEVITT

[OPC1024]

Schedule 11, page 324, line 13, at end insert –

“66AD Creating a copy of intimate photograph or film shared temporarily

- (1) A person (A) commits an offence if –
 - (a) another person (B) –
 - (i) shares with A a photograph or film which shows, or appears to show, B in an intimate state, and
 - (ii) does so in such a way that A can view the photograph or film for a limited time, but cannot send it to another person,
 - (b) A intentionally creates a copy of the photograph or film that A can view at other times,
 - (c) A knows that the photograph or film is shared with A by B,
 - (d) B does not consent to the creation of the copy, and
 - (e) A does not reasonably believe that B consents to the creation of the copy.
- (2) For the purposes of subsection (1)(a)(ii) –

- (a) the cases in which A can view the photograph or film for a limited time include the case where A can view it for as long as B allows A to do so;
 - (b) sending the photograph or film to another person does not include showing it to another person.
- (3) References in this section to creating a copy of a photograph or a film include –
- (a) creating a copy of part of a photograph or film, or
 - (b) creating a copy of a photograph or film with modifications, where the copy shows, or appears to show, B in the intimate state in which B is shown, or appears to be shown, in the photograph or film.
- (4) Subsection (1) is subject to section 66AE (exemptions).
- (5) It is a defence for a person charged with an offence under subsection (1) to prove that the person had a reasonable excuse for creating the copy.
- (6) Section 76 applies to an offence under this section.
- (7) A person who commits an offence under this section is liable on summary conviction to imprisonment for a term not exceeding the maximum term for summary offences or a fine (or both).

66AE Creating a copy of intimate photograph or film shared temporarily: exemptions

- (1) A person (A) does not commit an offence under section 66AD(1) in relation to a photograph or film shared with A if –
- (a) the photograph or film was, or A reasonably believes that it was, taken or recorded in a place to which the public or a section of the public had or were permitted to have access (whether on payment or otherwise),
 - (b) the person the photograph or film shows, or appears to show, in an intimate state (B) had no reasonable expectation of privacy from such a photograph or film being taken or recorded, and
 - (c) B was, or A reasonably believes that B was, in the intimate state voluntarily.
- (2) For the purposes of subsection (1)(b), whether a person had a reasonable expectation of privacy from a photograph or film being taken or recorded is to be determined by reference to the circumstances that A reasonably believes to have existed at the time the photograph or film was taken or recorded.
- (3) A person (A) does not commit an offence under section 66AD(1) in relation to a photograph or film shared with A if –
- (a) the photograph or film had, or A reasonably believes that the photograph or film had, been previously publicly shared, and
 - (b) B had, or A reasonably believes that B had, consented to the previous sharing.”

Member's explanatory statement

This amendment creates a new offence of creating a copy of a photograph or film showing, or appearing to show, a person in an intimate state, that has been shared with the person creating the copy only temporarily.

BARONESS LEVITT

[OPC1031]

Schedule 11, page 324, line 28, at end insert—

“(2A) In subsection (3), at the end insert “, or as a person with whom it is shared”.”

Member's explanatory statement

This amendment ensures that the provider of an internet service by means of which a photograph or film is shared is not regarded as a person with whom it is shared for the purposes of the offence in section 66AD of the Sexual Offences Act 2003 (inserted by my amendment to Schedule 11, page 324, line 13).

BARONESS LEVITT

[OPC1027]

Schedule 11, page 324, line 32, after “sections” insert “66AD, 66AE,”

Member's explanatory statement

This amendment applies the definition of photograph or film in section 66D(4B) of the Sexual Offences Act 2003 to the new sections inserted by my amendment to Schedule 11, page 324, line 13.

BARONESS LEVITT

[OPC1028]

Schedule 11, page 325, line 2, after the first “(3)” insert “66AD(1), 66AE(3)(b)”

Member's explanatory statement

This amendment applies the definition of consent in section 66D(10) of the Sexual Offences Act 2003 to the new sections inserted by my amendment to Schedule 11, page 324, line 13.

BARONESS LEVITT

[OPC1029]

Schedule 11, page 325, line 4, leave out “or sharing” and insert “, sharing or creating a copy”

Member's explanatory statement

This amendment applies the definition of consent in section 66D(10) of the Sexual Offences Act 2003 to the new sections inserted by my amendment to Schedule 11, page 324, line 13.

BARONESS LEVITT

[OPC1030]

Schedule 11, page 325, line 6, leave out “or sharing” and insert “, sharing or creating a copy”

Member's explanatory statement

This amendment applies the definition of consent in section 66D(10) of the Sexual Offences Act 2003 to the new sections inserted by my amendment to Schedule 11, page 324, line 13.

BARONESS LEVITT

[OPC1026]

Schedule 11, page 325, line 7, leave out “or sharing” and insert “, sharing or creating a copy”

Member's explanatory statement

This amendment applies the definition of consent in section 66D(10) of the Sexual Offences Act 2003 to the new sections inserted by my amendment to Schedule 11, page 324, line 13.

BARONESS LEVITT

[OPC1163]

Schedule 11, page 325, line 18, at end insert—

“(za) section 66AA;”

Member's explanatory statement

This amendment extends the time limit for prosecuting the offence in new section 66AA of the Sexual Offences Act 2003 (inserted by my amendment to Schedule 11, page 321, line 19).

BARONESS LEVITT

[OPC1037]

Schedule 11, page 325, line 20, at end insert—

“(ba) section 66AD;”

Member's explanatory statement

This amendment extends the time limit for prosecuting the offence in new section 66AD of the Sexual Offences Act 2003 (inserted by my amendment to Schedule 11, page 324, line 13).

BARONESS LEVITT

[OPC1164]

Schedule 11, page 325, line 24, for ““Intimate” substitute ““Semen-defaced images and intimate”

Member's explanatory statement

This amendment is consequential on my amendment at Schedule 11, page 325, line 18.

BARONESS LEVITT

[OPC1142]

Schedule 11, page 325, line 38, at end insert –

“An offence under section 66AD(1) (creating copy of intimate photograph or film shared temporarily)	The defendant intentionally creating a copy of the photograph or film in question.”
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Member's explanatory statement

This amendment is consequential on new section 66AD(6) of the Sexual Offences Act inserted by my amendment to Schedule 11, page 324, line 13.

BARONESS LEVITT

[OPC1038]

Schedule 11, page 328, line 27, at end insert –

“Section 66AD	Copy of a photograph or film to which the offence relates”
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Member's explanatory statement

This amendment enables a deprivation order under section 177DA of the Armed Forces Act 2006 to be made in respect of a copy the creation of which is an offence under new section 66AD of the Sexual Offences Act 2003 (inserted by my amendment to Schedule 11, page 324, line 13).

BARONESS LEVITT

[OPC1039]

Schedule 11, page 330, line 4, at end insert –

“Section 66AD	Copy of a photograph or film to which the offence relates”
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Member's explanatory statement

This amendment enables a deprivation order under section 154A of the Sentencing Code to be made in respect of a copy the creation of which is an offence under new section 66AD of the Sexual Offences Act 2003 (inserted by my amendment to Schedule 11, page 324, line 13).

BARONESS LEVITT

[OPC1166]

Schedule 11, page 330, line 21, at end insert –

“Online Safety Act 2023 (c. 50)

23 In Schedule 7 to the Online Safety Act 2023 (priority offences), in paragraph 28A (Sexual Offences Act 2003), at the end insert –

- “(c) section 66E (creating purported intimate image of adult);
- (d) section 66F (requesting the creation of purported intimate image of adult).”

Member's explanatory statement

This amendment adds offences to Schedule 7 to the Online Safety Act 2023, requiring service providers to take action to identify and minimise users' exposure to content created or requested in the commission of those offences and to mitigate the risk of services being used to commit those offences.

BARONESS LEVITT

[OPC1067]

After Clause 91, insert the following new Clause –

“Pornographic images of sex between relatives

(1) After section 67D of the Criminal Justice and Immigration Act 2008 (inserted by section 90 of this Act) insert –

“67E Possession or publication of pornographic images of sex between relatives

- (1) It is an offence for a person (P) to be in possession of an image if –
 - (a) the image is pornographic, within the meaning of section 63,
 - (b) the image portrays, in an explicit and realistic way, a person (A) sexually penetrating –
 - (i) the vagina or anus of another person (B) with a part of A's body or anything else, or
 - (ii) B's mouth with A's penis,
 - (c) a reasonable person looking at the image would think that A and B were real, and
 - (d) a reasonable person –
 - (i) looking at the image, and
 - (ii) taking into account any sound or information associated with the image,would think that A and B were related, or pretending to be related, in a way mentioned in subsection (2).
- (2) That is to say, A being related to B as parent, grandparent, child, grandchild, brother, sister, half-brother, half-sister, uncle, aunt, nephew or niece.

- (3) It is an offence for a person to publish an image of the kind mentioned in subsection (1).
- (4) Publishing an image includes giving or making it available to another person by any means.
- (5) For the purpose of subsection (1)(d) –
 - (a) the reference to sound or information associated with the image is –
 - (i) when subsection (1)(d) applies for the purpose of an offence under subsection (1), to sound, or information, associated with the image that is in P’s possession, and
 - (ii) when subsection (1)(d) applies for the purpose of an offence under subsection (3), to sound, or information, associated with the image that the person in subsection (3) publishes with the image, and
 - (b) A and B are not to be taken as pretending to be related if it is fanciful that they are actually related in the way pretended.
- (6) In subsection (2) –
 - (a) “parent” includes an adoptive parent;
 - (b) “child” includes an adopted person within the meaning of Chapter 4 of Part 1 of the Adoption and Children Act 2002;
 - (c) “uncle” means the brother of a person’s parent, and “aunt” has a corresponding meaning;
 - (d) “nephew” means the child of a person’s brother or sister, and “niece” has a corresponding meaning.
- (7) For the purpose of this section –
 - (a) “image” has the same meaning as in section 63;
 - (b) penetration is a continuing act from entry to withdrawal;
 - (c) “vagina” includes vulva;
 - (d) references to a part of the body include references to a part surgically constructed (in particular through gender reassignment surgery).
- (8) Subsections (1) and (3) do not apply to excluded images, within the meaning of section 64.
- (9) Nothing in –
 - (a) section 47 of the Adoption Act 1976 (which disapplies the status provisions in section 39 of that Act for the purposes of this section in relation to adoptions before 30 December 2005), or
 - (b) section 74 of the Adoption and Children Act 2002 (which disapplies the status provisions in section 67 of that Act for those purposes in relation to adoptions on or after that date),
 is to be read as preventing the application of section 39 of the Adoption Act 1976 or section 67 of the Adoption and Children Act 2002 for the purposes of subsection (6)(a) or (b).
- (10) Proceedings for an offence under this section may not be instituted except by or with the consent of the Director of Public Prosecutions.

67F Defences to offence under section 67E

- (1) Where a person is charged with an offence under section 67E(1), 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 image of the kind mentioned in section 67E(1);
 - (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;
 - (d) that –
 - (i) the person directly participated in the act portrayed as person A or B mentioned in section 67E(1)(b),
 - (ii) the act did not involve the infliction of any non-consensual harm on any person, and
 - (iii) the person is not related to person B or A (as the case may be) in a way mentioned in section 67E(2).
- (3) Where a person is charged with an offence under section 67E(3), it is a defence for a person to prove any of the matters mentioned in subsection (4).
- (4) The matters are –
 - (a) that the person had a legitimate reason for publishing the image concerned to the persons to whom they published it;
 - (b) that the person had not seen the image concerned and did not know, nor had any cause to suspect, it to be an image of the kind mentioned in section 67E(1);
 - (c) that –
 - (i) the person directly participated in the act portrayed as person A or B mentioned in section 67E(1)(b),
 - (ii) the act did not involve the infliction of any non-consensual harm on any person,
 - (iii) the person is not related to person B or A (as the case may be) in a way mentioned in section 67E(2), and
 - (iv) the person only published the image to person B or A (as the case may be).
- (5) In this section, “non-consensual harm” has the same meaning as in section 66.

67G Penalties for offences under section 67E

- (1) A person who commits an offence under section 67E(1) is liable –

- (a) on summary conviction, to imprisonment for a term not exceeding the general limit in a magistrates' court or a fine (or both);
 - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine (or both).
- (2) A person who commits an offence under section 67E(3) is liable—
 - (a) on summary conviction, to imprisonment for a term not exceeding the general limit in a magistrates' court or a fine (or both);
 - (b) on conviction on indictment, to imprisonment for a term not exceeding five years or a fine (or both)."
- (2) In section 68 of that Act (special rules relating to providers of information society services), after "67A" (inserted by section 90 of this Act) insert "and 67E".
- (3) In Schedule 14 to that Act (special rules relating to providers of information society services), in paragraphs 3(1), 4(2) and 5(1) after "67A" (inserted by section 90 of this Act) insert "or 67E".
- (4) In section 47(1) of the Adoption Act 1976, for "or sections 64 and 65 of the Sexual Offences Act 2003 (sex with an adult relative)" substitute "sections 64 and 65 of the Sexual Offences Act 2003 (sex with an adult relative), or section 67E of the Criminal Justice and Immigration Act 2008 (possession or publication of pornographic images of sex between relatives)".
- (5) In section 74(1) of the Adoption and Children Act 2002—
 - (a) omit the "or" after paragraph (a);
 - (b) after paragraph (b) insert " , or
 - (c) section 67E of the Criminal Justice and Immigration Act 2008 (possession or publication of pornographic images of sex between relatives)."
- (6) In Schedule 34A to the Criminal Justice Act 2003 (child sex offences for the purposes of section 327A), after paragraph 13ZA (inserted by section 90 of this Act) insert—

"13ZB An offence under section 67E of that Act (possession or publication of pornographic images of sex between relatives)."
- (7) In Schedule 7 to the Online Safety Act 2023 (priority offences), in paragraph 29, after paragraph (b) (inserted by section 90 of this Act) insert " ;
 - (c) section 67E (possession or publication of pornographic images of sex between relatives)"."

Member's explanatory statement

This amendment makes it an offence to possess or publish pornographic images of sex between relatives (that is to say, incest).

[OPC1114]

After Clause 94, insert the following new Clause –

“Sexual activity with an animal

- (1) The Sexual Offences Act 2003 is amended in accordance with subsections (2) to (5).
- (2) For section 69 (intercourse with an animal) substitute –

“69 Sexual activity with an animal

- (1) A person commits an offence if –
 - (a) the person intentionally touches an animal (whether living or dead),
 - (b) the person knows that, or is reckless as to whether, that is what is touched, and
 - (c) the touching is sexual.
- (2) For the purposes of this section, touching is sexual if a reasonable person would consider that –
 - (a) because of its nature it may be sexual, and
 - (b) because of its circumstances or the purpose of any person in relation to it (or both) it is sexual.
- (3) A person who commits an offence under this section is liable –
 - (a) on summary conviction, to imprisonment for a term not exceeding the general limit in a magistrates’ court or a fine (or both);
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years.”
- (3) In section 78 (meaning of “sexual”), after “66D” insert “, 69”.
- (4) In section 79 (Part 1: general interpretation) omit subsection (10).
- (5) In paragraphs 35 and 92 of Schedule 3 (sexual offences that make offender subject to notification requirements), for “intercourse” substitute “sexual activity”.
- (6) In the following provisions, for “intercourse” substitute “sexual activity” –
 - (a) paragraph 151 of Schedule 15 to the Criminal Justice Act 2003;
 - (b) paragraph 38(az) of Schedule 18 to the Sentencing Code.”

Member's explanatory statement

This amendment replaces the existing offence of intercourse with an animal with a wider offence of sexual activity with an animal.

[OPC1179]

Clause 95, page 122, line 12, leave out “paragraph 35” and insert “paragraphs 35 and 92”

Member's explanatory statement

This amendment updates the wording of a reference to the offence of sexual activity with a corpse in paragraph 92 of Schedule 3 to the Sexual Offences Act 2003.

LORD HANSON OF FLINT

[OPC862]

After Clause 121, insert the following new Clause –

“Domestic abuse protection orders

- (1) The Domestic Abuse Act 2021 is amended as follows.
- (2) In section 35 (provision that may be made by orders), after subsection (5) insert –
 - “(5A) A domestic abuse protection order may require P to participate in an assessment to determine whether P should be required to participate in a programme of activities.
 - (5B) A domestic abuse protection order may provide that if, following an assessment required under subsection (5A), the person carrying out the assessment determines that P should participate in a programme of activities, then P is required to participate in that programme of activities.”.
- (3) In section 36 (further provision about requirements that may be imposed by orders), omit subsections (2) to (7).
- (4) In section 44 (variation and discharge of orders), after subsection (3) insert –
 - “(3A) A magistrates’ court may of its own motion vary a domestic abuse protection order made by a magistrates’ court acting in the local justice area in which that court acts.
 - (3B) The Crown Court may of its own motion vary a domestic abuse protection order made by the Crown Court.”

Member's explanatory statement

This new clause adds participation in an assessment and programme of activities as examples of requirements that a domestic abuse protection order may include, and allows the criminal courts to vary domestic abuse protection orders of their own motion.

LORD HANSON OF FLINT

[OPC1070]

After Clause 121, insert the following new Clause –

“Guidance about honour-based abuse

- (1) The Secretary of State may issue guidance about honour-based abuse to such public authorities as the Secretary of State considers appropriate.
- (2) Guidance under this section may include guidance about –
 - (a) the prevention of honour-based abuse;

- (b) the identification of honour-based abuse;
 - (c) the collection and sharing of information about honour-based abuse;
 - (d) how public authorities should work together in relation to honour-based abuse.
- (3) Before issuing guidance under this section the Secretary of State must consult such persons as the Secretary of State considers appropriate.
 - (4) A public authority to which guidance under this section is given must have regard to the guidance when exercising its public functions.
 - (5) The Secretary of State must publish the guidance.
 - (6) The Secretary of State may revise the guidance.
 - (7) Subsections (3) to (6) apply to any revised guidance, except that subsection (3) does not apply if the Secretary of State considers that the revisions are not substantial.
 - (8) In this section “public authority” means a person exercising public functions, other than a court or tribunal.”

Member's explanatory statement

This amendment confers a power on the Secretary of State to issue guidance to public authorities about honour-based abuse.

LORD HANSON OF FLINT

[OPC1183]

After Clause 121, insert the following new Clause—

“Meaning of “honour-based abuse”

- (1) For the purposes of section (*Guidance about honour-based abuse*) “honour-based abuse” occurs where—
 - (a) a person (“A”) engages in abusive behaviour towards another person (“B”) who is a member of A’s family or is a relevant connection of A,
 - (b) A is motivated wholly or partly by A’s perception that B has behaved, is behaving or may behave in a way which—
 - (i) shames or dishonours A, B, A’s family, B’s family or A’s community, and
 - (ii) does not comply with the accepted norms of behaviour in A’s community.
- (2) The reference to A engaging in abusive behaviour towards B includes A causing another person to engage in abusive behaviour towards B.
- (3) A person’s behaviour may be behaviour “towards” B despite the fact that it consists of conduct directed at another person (for example, B’s child).
- (4) Behaviour is “abusive” if it consists of—
 - (a) physical or sexual abuse,
 - (b) violent or threatening behaviour,
 - (c) controlling or coercive behaviour,
 - (d) economic abuse (see subsection (5)),

- (e) spiritual abuse,
 - (f) psychological or emotional abuse, or
 - (g) other abuse,
- and it does not matter whether the behaviour consists of a single incident or a course of conduct.
- (5) “Economic abuse” means any behaviour that has a substantial adverse effect on B’s ability to –
- (a) acquire, use or maintain money or other property, or
 - (b) obtain goods or services.
- (6) A person is a member of another person’s family if any of the following applies –
- (a) they are relatives,
 - (b) they are, or have been, married to each other,
 - (c) they are, or have been, civil partners of each other,
 - (d) they have agreed to marry one another (whether or not the agreement has been terminated),
 - (e) they have entered into a civil partnership agreement (whether or not the agreement has been terminated),
 - (f) they are, or have been, in an intimate relationship with each other, or
 - (g) they each have, or there has been a time when they each have had, a parental relationship in relation to the same child,
- (and references to a person’s family are to be read accordingly).
- (7) A person is a relevant connection of another person if they are friends or acquaintances who are known to each other in person.
- (8) For the purposes of subsection (6)(g) a person has a parental relationship in relation to a child if –
- (a) the person is a parent of the child, or
 - (b) the person has parental responsibility for the child.
- (9) In this section –
- “child” means a person under the age of 18 years;
 - “civil partnership agreement” has the meaning given by section 73 of the Civil Partnership Act 2004;
 - “parental responsibility” has the same meaning as in the Children Act 1989 (see section 3 of that Act);
 - “relative” has the meaning given by section 63(1) of the Family Law Act 1996.”

Member's explanatory statement

This new clause defines “honour-based abuse” for the purposes of my new clause (Guidance about honour based abuse), inserted after clause 121.

LORD HANSON OF FLINT

[OPC1160]

Clause 186, page 238, line 40, leave out “which made the order” and insert “to which the application under section 183 was made”

Member's explanatory statement

This amendment clarifies that the relevant court for determining the police area is the one to which the application for a youth diversion order was made.

LORD HANSON OF FLINT

[OPC1157]

Clause 193, page 242, line 25, leave out “a youth court made the youth diversion order” and insert “the respondent was under the age of 18 when the application under section 183 was made”

Member's explanatory statement

This amendment clarifies which court an application for variation should be made to.

LORD HANSON OF FLINT

[OPC1158]

Clause 193, page 242, line 27, leave out from first “court” to end of line 28 and insert “in any other case;”

Member's explanatory statement

This amendment clarifies which court an application for variation should be made to.

LORD HANSON OF FLINT

[OPC997]

Clause 194, page 243, line 25, leave out subsections (3) and (4)

Member's explanatory statement

This amendment removes provision for an appeal to the Court of Appeal from a decision made by the Crown Court on an appeal under clause 194(1). The effect is that there will be an appeal by way of case stated to the High Court under section 28 of the Senior Courts Act 1981.

LORD HANSON OF FLINT

[OPC1159]

Clause 194, page 243, line 35, leave out subsection (6)

Member's explanatory statement

This amendment removes provision which is superseded by my amendments to clauses 186 and 193.

LORD HANSON OF FLINT

[OPC1176]

Clause 217, page 261, line 30, at end insert –

“(fa) section 65(3);”

Member's explanatory statement

This amendment gives the specified provision (which amends Schedule 3 to the Sexual Offences Act 2003) UK extent.

LORD HANSON OF FLINT

[OPC1165]

Clause 217, page 261, line 34, at end insert –

“(ja) section (*Purported intimate image generators*)(5);”

Member's explanatory statement

The amendment gives the specified provision (which amends Schedule 3 to the Sexual Offences Act 2003) UK extent.

BARONESS LEVITT

[OPC1080]

Clause 217, page 261, line 35, at end insert –

“(ka) section (*Pornographic images of sex between relatives*)(7);”

Member's explanatory statement

This amendment gives the specified provision (which amends the Online Safety Act 2023) UK extent.

BARONESS LEVITT

[OPC1143]

Clause 217, page 261, line 36, at end insert –

“(la) section (*Sexual activity with an animal*)(5);”

Member's explanatory statement

This amendment gives the specified provision (which amends Schedule 3 to the Sexual Offences Act 2003) UK extent.

BARONESS LEVITT

[OPC1178]

Clause 217, page 262, line 11, leave out “paragraph” and insert “paragraphs 15,”

Member's explanatory statement

This amendment gives paragraph 15 of Schedule 11 (which amends Schedule 3 to the Sexual Offences Act 2003) UK extent.

BARONESS LEVITT

[OPC1167]

Clause 217, page 262, line 11, after “19” insert “and 23”

Member's explanatory statement

This amendment gives the new paragraph of Schedule 11 inserted by my amendment to Schedule 11, page 330, line 21 (which amends the Online Safety Act 2023) UK extent.

BARONESS LEVITT

[OPC1081]

Clause 217, page 262, line 13, after “90(1) to (3),” insert “(Pornographic images of sex between relatives)(2) and (3),”

Member's explanatory statement

This amendment provides that the specified provisions (which amend the Criminal Justice and Immigration Act 2008) extend to England and Wales and Northern Ireland.

BARONESS LEVITT

[OPC1177]

Clause 217, page 262, line 30, at end insert –

“(ia) section 95(2);”

Member's explanatory statement

This amendment provides for the amendments made by the specified provision to have the same extent as the provisions they amend.