

Online and Intimate Image Offending

Criminal Laws (Amendment) Bill 2024

What is online and intimate image offending?

The internet is a feature of modern life and using online services and applications is part of day to day living. Many electronic devices have inbuilt cameras and recording software and uploading images and videos to the internet is easy to do. Social media and other online platforms facilitate instant communication with others and allows for messages, images and videos to be sent directly to others, or uploaded to the internet, at the press of a button.

Online and intimate image offending refers to behaviour which uses the internet or electronic devices to commit criminal offences. This includes behaviour such as filming a person in an intimate state without their consent and using social media to send abusive or threatening messages.

Is online and intimate image offending already covered by the law?

Some online and intimate image offending can be prosecuted using existing criminal offences but the current law does not cover all types of online and intimate image offending. A Government review of this area has recommended that the law relating to online and intimate image offences should be updated and modernised.

What does the Bill aim to do?

The Bill aims to increase protection against online and intimate image offending by modernising existing criminal offences and creating new offences designed to specifically address this type of behaviour.

Anyone can be a victim of online and intimate image offending but it can disproportionately affect women and girls. The new criminal offences are designed to protect everyone, regardless of gender, but they target a specific type of criminal behaviour which can be related to sex or gender and so they also aim to provide greater protection for women and girls against this type of abusive conduct.

What are the criminal offences?

Offence: Sending a communication with intent to cause distress

This offence is committed where the offender sends a communication which is indecent or grossly offensive, with the intention to cause distress or anxiety. The maximum penalty for this offence is imprisonment for 2 years.



Offence: Improper use of the communications network

This offence is committed where an offender uses a public communications network to send a communication which is grossly offensive, indecent, obscene or menacing in character. The maximum penalty for this offence is imprisonment for 2 years.

Offence: Sending a false communication

This offence is committed where the offender, without reasonable excuse, sends a communication containing information which they know to be false with the intention of causing non-trivial psychological or physical harm. The maximum penalty for this offence is imprisonment for 2 years.

Offence: Sending a threatening communication

This offence is committed where the offender sends a communication which conveys a threat of death or serious harm, including a threat of rape, intending that a person would fear that the threat would be carried out, or being reckless as to that outcome. The maximum penalty for this offence is imprisonment for 5 years.

Offence: Sending a flashing image to a person with epilepsy

This offence is committed where the offender, without reasonable excuse, sends a communication which contains flashing images and it is reasonably foreseeable that a person with epilepsy would view it and the offender intended to cause harm. The maximum penalty for this offence is imprisonment for 5 years.

Offence: Encouraging or assisting serious self-harm

This offence is committed where an offender sends a communication which encourages or assists the serious-self harm of another person, with the intention of encouraging or assisting that outcome. The maximum penalty for this offence is imprisonment for 5 years.

Offence: Sending an image or film of genitals

This offence is committed where an offender intentionally sends an image or film of a person's genitals to another person with the intention to obtain sexual gratification or to cause humiliation, alarm or distress. The maximum penalty for this offence is imprisonment for 2 years.

Offence: Recording a film or image of a person breast-feeding a child

This offence is committed where an offender records an image or film of a person breast-feeding a child, without consent and with the intention to obtain sexual gratification or to cause humiliation, alarm or distress. The maximum penalty for this offence is imprisonment for 2 years.

Offence: Disclosing private sexual images

This category of behaviour is separated into four separate criminal offences.

The first offence is committed where an offender intentionally shares an intimate image or film of another person without the person's consent or a reasonable belief in their consent. The maximum penalty for this offence is imprisonment for 1 year.

The second offence is committed where an offender intentionally shares an intimate image or film of another person, without their consent and with the intention of causing the person alarm, distress or humiliation. The maximum penalty for this offence is imprisonment for 2 years.

The third offence is committed where an offender intentionally shares an intimate image or film of another person for the purpose of obtaining sexual gratification for themselves or a third person, without consent or a reasonable belief in consent. The maximum penalty for this offence is imprisonment for 2 years.

The fourth offence is committed where an offender threatens to share an intimate image or film of another person, intending that the person would fear that the threat would be carried out, or being reckless as to that outcome. The maximum penalty for this offence is imprisonment for 2 years.

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