



ANNO VICESIMO SEPTIMO

ELIZABETHAE II REGINAE

A.D. 1978

No. 92 of 1978

An Act to prohibit the making of pornography involving children and for that purpose to amend the Criminal Law Consolidation Act, 1935-1978.

[Assented to 7th December, 1978]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

1. (1) This Act may be cited as the "Criminal Law (Prohibition of Child Pornography) Act, 1978". Short titles.

(2) The Criminal Law Consolidation Act, 1935-1978, is hereinafter referred to as "the principal Act".

(3) The principal Act, as amended by this Act, may be cited as the "Criminal Law Consolidation Act, 1935-1978".

2. Section 58 of the principal Act is amended—

(a) by striking out from subsection (1) the passage "two years, and for any subsequent offence to be imprisoned for any term not exceeding three years" and inserting in lieu thereof the passage "three years, and for any subsequent offence to be imprisoned for any term not exceeding five years";

Amendment of principal Act, s. 58—
Acts of gross indecency with persons under the age of sixteen years.

and

(b) by inserting after subsection (2) the following subsections:—

(3) For the purposes of this section, a person is a party to the commission of an act of gross indecency if—

(a) he takes a photograph;

or

- (b) he procures or attempts to procure the taking of a photograph,
of a person under the age of sixteen years while that person—
- (c) is committing an act of gross indecency or is in an attitude or pose calculated to give indecent prominence to sexual or excretory organs;
or
- (d) is in the presence of another person who is committing an act of gross indecency or is in an attitude or pose calculated to give indecent prominence to sexual or excretory organs.
- (4) Any person who—
- (a) distributes or exhibits,
(b) has in his possession for the purposes of distribution or exhibition,
or
- (c) publishes or causes to be published any advertisement likely to be understood as conveying that he distributes or exhibits,
any photograph of the kind referred to in subsection (3) of this section, shall be guilty of a misdemeanour, and liable for a first offence, to be imprisoned for any term not exceeding three years, and for any subsequent offence, to be imprisoned for any term not exceeding five years.

(5) Where a person is charged with an offence under paragraph (a) or (b) of subsection (4) of this section, it shall be a defence for him to prove—

- (a) that he had a legitimate reason for distributing or exhibiting the photographs or having them in his possession;
or
- (b) that he had not himself seen the photographs and he neither knew, nor had any cause to suspect, them to be indecent.

(6) For the purposes of subsection (3) of this section—

“photograph” includes—

- (a) a film;
(b) a video-tape;
(c) any other form of optical or electronic record from which a visual image can be produced.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

K. D. SEAMAN, Governor