CRIME AND POLICING ACT 2026

Child Abduction, Pornography

CIRCULAR 2026/01



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This circular is addressed to	Lord Chief Justice, Justices of the Supreme Court, President of the Queen's Bench Division, Master of the Rolls, Senior Presiding Judge, Lords Justices of Appeal, Chairman of the Judicial College, High Court Judges, Presiding Judges, Resident Judges, Crown Court Judges, District Judges (Magistrates' Courts), Chairmen of the Justices, Director of Public Prosecutions, HM Chief Inspector of Constabulary, Chief Officers of Police in England and Wales, Director General of the National Crime Agency, Police Service Scotland, Police Service of Northern Ireland, Director-General of HM Prison Service, Chief Executive of HM Courts and Tribunals Service, Chief Executive of the Youth Justice Board for England and Wales, Chief Crown Prosecutors, Heads of Division Revenue and Customs Prosecution Office, Chief Probation Officers, Director of Crime, Heads of Crime, Cluster Managers, Regional Support Units, Court Managers Crown Courts, Court Managers Magistrates' Courts, Clerks to the Justices, DVLA, DOENI, DVA Northern Ireland, Northern Ireland Courts Service. Sentencing Council.
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The purpose of this circular

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1. The purpose of this circular is to notify recipients of the commencement of section 137 of the Crime and Policing Act 2026[1] (the 2026 Act) which will be brought into force by the Crime and Policing Act 2026 (Commencement No. 4) Regulations 2026[2] on 6 November 2026.

2. Section 137 of the 2026 Act inserts a new subsection (1A) into section 1 of the Child Abduction Act 1984, making it an offence for a person connected with a child under the age of 16 to detain that child outside the United Kingdom (UK) without the appropriate consent, where the child was originally taken or sent abroad with such consent. The offence closes a gap in the existing law relating to the detention of children abroad without consent, following their initial lawful departure.

3. Sections 104, 106 and 107 of the 2026 Act insert new sections 67A to 67J into the Criminal Justice and Immigration Act 2008 to criminalise the possession and publication of pornographic images depicting strangulation or suffocation, penetrative sex between certain family members or persons pretending to be related in those ways, and sexual activity involving a person who is or is pretending to be under 16. The new offences are subject to specified defences and penalties.

Background

Child Abduction

4. There is a strong public interest in ensuring that children are not removed from, or detained outside, the UK without appropriate consent (including, where relevant, the leave of the court). The aim of the offence is to safeguard children from child abduction, protect the rights of those with parental responsibility, and uphold custody rights.

5. The existing parental child abduction offence is contained in section 1 of the Child Abduction Act 1984 (the 1984 Act).[3] It makes it an offence for a parent or other connected person to take or send a child under the age of 16 out of the UK without the consent of specified persons, or the court.

6. For the purposes of the new offence, "appropriate consent" will have the same meaning as that under the existing parental child abduction offence at section 1 of the 1984 Act (see section 1(3)). In most cases, this will mean the consent of all persons with parental responsibility for the child or, where required, the permission of the court.

7. A gap in the law became apparent following the High Court's decision in *R (Nicolaou) v Redbridge Magistrates' Court* [2012].[4] The High Court held that the words “takes or sends” in section 1 of the 1984 Act refer to the act of taking or sending the child out of the UK and do not extend to the subsequent retention of the child abroad. As a result, where a parent had taken a child abroad lawfully (for example with consent from the other parent

[1] Crime and Policing Act 2026
[2] The Crime and Policing Act 2026 (Commencement No. 4) Regulations 2026
[3] Child Abduction Act 1984
[4] Nicolaou, R (on the application of) v Redbridge Magistrates' Court & Anor [2012] EWHC 1647 (Admin) (20 June 2012)

or person with similar responsibility, or with the court's permission), it was not an offence under section 1 of the 1984 Act to detain the child abroad beyond the agreed or authorised period.

8. The Law Commission subsequently considered this issue as part of its review of kidnapping and related offences. In its 2014 report, *Simplification of the Criminal Law: Kidnapping and Related Offences*[5], the Law Commission recommended that section 1 of the 1984 Act be amended to cover situations where a person connected with a child lawfully takes or sends the child abroad but subsequently retains or detains the child outside the UK without the necessary consent or in breach of the conditions upon which that consent was given (see Recommendation 4: Criminalise Parental Child Retention).

9. The Government accepted the need to address this gap. Under new section 1(1A) of the Child Abduction Act 1984, a person connected with a child under the age of sixteen commits an offence if the child is taken or sent out of the UK with the appropriate consent and, at any time after the child is taken or sent, the person detains the child outside the UK without the appropriate consent. The new offence is therefore intended to ensure that the law applies consistently both where a child is unlawfully taken abroad and where a child is unlawfully detained abroad following an initial lawful departure. Its aim is to provide an additional safeguard against parental child abduction and strengthen the legal framework for responding to the most serious cases of international parental child abduction.

Conclusion

10. The Government considers that the new offence closes a longstanding gap in the law by ensuring that both the wrongful removal of a child from the UK and the wrongful detention of a child abroad following an initially lawful departure, may attract criminal liability where appropriate. At the same time, the Government recognises the complexities that can arise in cases involving domestic abuse and is clear that the new offence is not intended to cut across civil measures.

11. Victims of domestic abuse will also continue to benefit from a range of protections and support, including refuges, safe accommodation, protective injunctions and the wider safeguards provided through the Domestic Abuse Act 2021.

Possession and publication of egregious pornography

12. Baroness Bertin's Independent Pornography Review, published in February 2025, identified certain harmful pornography that can shape and influence how we conduct ourselves in sexual relationships, such as pornography depicting strangulation, or could contribute to an interest in behaviour that would otherwise be illegal in real life, such as pornography depicting incest or child sexual abuse.[6]

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[5] Law Commission Simplification of Criminal Law: Kidnapping and Related Offences HC 797

[6] Independent review of pornography

13. During the passage of the Crime and Policing Act 2026, there was cross-party support for amendments related to criminalising harmful depictions in pornography, as well as for wider action to ensure that pornography has some form of regulatory standards.

14. Tackling violence against women and girls is a defining mission of this Government, with an ambition to halve it within a decade. Recognising the influence that pornography can have on attitudes and behaviours offline, the Government is determined to tackle particularly dangerous and degrading content. Criminalising the possession and publication of some forms of pornography is an important part of our wider focus on preventing violence and abuse.

15. The Government recognises that pornography depicting strangulation is rife online and evidence suggests strangulation in sex is becoming more commonplace in real life – particularly among young people who may be unaware of the serious harm it can cause.

16. We also know that there are concerns that the proliferation of incest-themed pornography can contribute to harmful attitudes, particularly where it risks normalising child sexual abuse which is extremely harmful, and the Government agrees that pornography that mimics child sexual abuse and risks normalising it must be tackled.

17. Recognising the harms that some forms of pornography can have in shaping behaviours offline, we are criminalising the possession and publication of particularly egregious content.

Relationship with online safety

18. The new offences will be listed as priority offences in Schedule 7 to the Online Safety Act 2023. This means that, in line with Ofcom guidance and Codes of Practice, platforms will be required to take proactive steps and have systems and processes in place to prevent such harmful content from being encountered by UK users.

Summary of new criminal offences

Child abduction

19. Section 137 of the 2026 Act amends the 1984 Act in England and Wales by creating a new offence of wrongfully detaining a child outside the UK, following an initial lawful departure of the child from the UK. The 2026 Act amends the 1984 Act as follows:

- Section 137(2)(a) inserts new subsection (1A) into section 1 of the 1984 Act. Under the new offence, a person connected with a child under the age of 16 commits an offence where:

  (a) the child is taken or sent out of the UK with the appropriate consent; and
  (b) at any time thereafter, that person detains the child outside the UK without the appropriate consent.

- Section 137(2)(b) amends section 1(4) of the 1984 Act to extend the existing statutory exceptions to the new offence of detaining a child outside the UK. Accordingly, a person does not commit the offence where they detain the child outside the UK without obtaining the appropriate consent if:

  (a) they are named in the child arrangements order as a person with whom the child is to live, and the child is detained outside the UK for less than one month; or
  (b) they are a special guardian of the child, and the child is detained outside the UK for less than three months.

- Section 137(2)(c) amends section 1(4A) of the 1984 Act so that the exceptions in section 1(4) do not apply where the detention of the child outside the UK is in breach of an order made under Part II of the Children Act 1989.

- Section 137(2)(d) amends section 1(5A)(b) of the 1984 Act so that the defence in section 1(5)(c), relating to unreasonable refusal of consent, does not apply where the person is acting in breach of an order made by a court in the UK by detaining the child outside the UK.

- Section 137(3) makes a consequential amendment to section 11(3) of the 1984 Act. Section 11(3) provides that references to "abduction" in certain specified enactments are to be construed as not including the existing offence under section 1 of the 1984 Act. Section 137(3) replaces the reference to "section 1" with "section 1(1)", so that this exclusion is confined to the existing offence under section 1(1) and does not extend to the new offence under section 1(1A).

- Section 137(4) amends the Schedule to the 1984 Act to ensure that the existing modifications to section 1 in relation to children in certain cases apply equally to the new offence in section 1(1A) in the same way as the existing section 1(1) offence.

- Section 137(5) provides that the amendments made by section 137 apply only where the taking or sending of the child out of the UK takes place on or after the date on which section 137 of the 2026 Act comes into force.

<u>Pornography</u>

20. The 2026 Act amends the Criminal Justice and Immigration Act 2008 (CJIA) by creating new offences of possessing or publishing specified pornographic images. For these purposes, Possess carries its ordinary meaning and a person publishes an image if they give it, or make it available, to another person by any means.

- Section 104 of the 2026 Act inserts new sections 67A to 67D into the CJIA. Section 67A makes it an offence to possess or publish a pornographic image which portrays, in an explicit and realistic way, a person strangling or suffocating another person, where a reasonable person looking at the image would think that the persons portrayed were

real. Sections 67B to 67D make related provision in respect of defences, penalties and an alternative verdict.

- Section 106 of the 2026 Act inserts new sections 67E to 67G into the CJIA. Section 67E makes it an offence to possess or publish a pornographic image which portrays, in an explicit and realistic way, penetrative sexual activity between persons who a reasonable person would think were real and related, or pretending to be related, in specified ways. The specified relationships include parent, grandparent, child, grandchild, brother, sister, half-brother, half-sister, uncle, aunt, nephew and niece. They also include certain step and foster relationships where at least one of the persons is, or is pretending to be, under the age of 18. New section 67E(1)(d) makes clear that when considering whether or not a reasonable person would think the people are, or are pretending to be, related in that way, any sound or information associated with the image can be taken into account. Sections 67F and 67G make related provision in respect of defences and penalties.

- Section 107 of the 2026 Act inserts new sections 67H to 67Jinto the CJIA. Section 67H makes it an offence to possess or publish a pornographic image which a reasonable person, looking at the image and taking account of any sound or information associated with it, would think portrays sexual activity in an explicit and realistic way, would think involves real persons, and would think involves at least one person who is, or is pretending to be, under the age of 16. Section 67H(3) provides that a person is not to be taken as pretending to be under 16 where it is fanciful that they are actually under 16 in the way pretended. The offences are intended to address pornographic material depicting conduct which would be unlawful if carried out in real life. Sections 67I and 67J make related provision in respect of defences and penalties.

21. The offences only capture pornography that shows people which appear, to a reasonable person, to be real.

22. The maximum penalty for possession as provided for in sections 67C, 67G and 67J, is:
    - 2 years' imprisonment for pornography that depicts strangulation or suffocation, or penetrative sexual activity between certain relatives;
    - 3 years' imprisonment for pornography depicting sexual activity involving a person who is, or is pretending to be, under 16.

23. The maximum penalty for publication, also provided for in sections 67C, 67G and 67J, for each of the offences is 5 years' imprisonment.

24. There are defences available for these offences under sections 67B, 67F and 67I. For example, a person may have a defence to the possession and publication offences if they had not seen the image previously and did not know, or have cause to suspect, that it was an image covered by the offences.

25. There is also a defence where the person who possesses or publishes the image directly participated in the act shown in the image and other criteria are met. For the possession offences, there is also a defence where a person was sent the image without asking for it

(either themselves, or through a third party) and did not keep it for an unreasonable length of time.

26. The offences also attract a defence of legitimate reason for possessing or publishing the image.

27. The offences, contained within sections 104, 106 and 107 of the 2026 Act, are designated as priority offences under the Online Safety Act 2023. Regulated services will accordingly be required to carry out relevant risk assessments and to put proportionate systems and processes in place to prevent UK users from encountering the illegal content. Ofcom is responsible for monitoring and enforcing compliance with the Online Safety Act framework.

Useful links

- Crime and Policing Act 2026
- The Crime and Policing Act 2026 (Commencement No. 4) Regulations 2026
- Child Abduction Act 1984
- Domestic Abuse Act 2021
- Criminal Justice and Immigration Act 2008
- Online Safety Act 2023

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