



Application of Enactments Ordinance 1962 (FLK No.2 of 1962)

Application of Colony Laws Ordinance 1964 (DS No.1 of 1964)

Obscene Publications Act 1959

UK Legis LINK as originally enacted	Obscene Publications Act 1959 c.66
English commencement	29 August 1959
English status	In force (amended)
AEO Schedule No.	A4
Date applied in SGSSI:	1 May 1962
Extent of application:	(i) The whole Act except the proviso to section 1(3) and section 5(3); (ii) in subsection (1) of section 3 the words “in the petty sessions area for which he acts” and the words “in that area” shall be deemed to be omitted; (iii) in subsection (3) of section 3 the words “acting for the same petty sessions area as the justice who issued the warrant” and the words “for that petty sessions area” shall be deemed to be omitted;” (iv) for subsection (5) of section 3 there shall be substituted — “(5) Where an order is made under this section for the forfeiture of any articles, any person who appeared, or was entitled to appear, to show cause against the making of the order may appeal to the Supreme Court within fourteen days after the day on which the order is made

and no such order shall take effect until the expiration of the time hereby limited for appeal, or until the determination of the appeal, whichever shall be later.”.

Obscene Publications Act 1959

1959 CHAPTER 66

An Act to amend the law relating to the publication of obscene matter; to provide for the protection of literature; and to strengthen the law concerning pornography.

[29th July, 1959]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Test of obscenity

- (1) For the purposes of this Act an article shall be deemed to be obscene if its effect or (where the article comprises two or more distinct items) the effect of any one of its items is, if taken as a whole, such as to tend to deprave and corrupt persons who are likely, having regard to all relevant circumstances, to read, see or hear the matter contained or embodied in it.
- (2) In this Act " article " means any description of article containing or embodying matter to be read or looked at or both, any sound record, and any film or other record of a picture or pictures.
- (3) For the purposes of this Act a person publishes an article who—
 - (a) distributes, circulates, sells, lets on hire, gives, or lends it, or who offers it for sale or for letting on hire; or
 - (b) in the case of an article containing or embodying matter to be looked at or a record, shows, plays or projects it:

[Note: Proviso not applied]

2 Prohibition of publication of obscene matter

- (1) Subject as hereinafter provided, any person who, whether for gain or not,

publishes an obscene article shall be liable—

- (a) on summary conviction to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding six months;
 - (b) on conviction on indictment to a fine or to imprisonment for a term not exceeding three years or both.
- (2) Notwithstanding anything in section one hundred and four of the [15 & 16 Geo. 6 & 1 Eliz. 2. c. 55.] Magistrates' Courts Act, 1952, summary proceedings for an offence against this section may be brought at any time within twelve months from the commission of the offence; and paragraph 16 of the First Schedule to the Magistrates' Courts Act, 1952 (under which an offence at common law of publishing, exhibiting or selling obscene articles may be tried summarily) is hereby repealed.
- (3) A prosecution on indictment for an offence against this section shall not be commenced more than two years after the commission of the offence.
- (4) A person publishing an article shall not be proceeded against for an offence at common law consisting of the publication of any matter contained or embodied in the article where it is of the essence of the offence that the matter is obscene.
- (5) A person shall not be convicted of an offence against this section if he proves that he had not examined the article in respect of which he is charged and had no reasonable cause to suspect that it was such that his publication of it would make him liable to be convicted of an offence against this section.
- (6) In any proceedings against a person under this section the question whether an article is obscene shall be determined without regard to any publication by another person unless it could reasonably have been expected that the publication by the other person would follow from publication by the person charged.

3 Powers of search and seizure

- (1) If a justice of the peace is satisfied by information on oath that there is reasonable ground for suspecting that, in any premises [...], or on any stall or vehicle in that area, being premises or a stall or vehicle specified in the information, obscene articles are, or are from time to time, kept for publication for gain, the justice may issue a warrant under his hand empowering any constable to enter (if need be by force) and search the premises, or to search the stall or vehicle, within fourteen days from the date

of the warrant, and to seize and remove any articles found therein or thereon which the constable has reason to believe to be obscene articles and to be kept for publication for gain.

- (2) A warrant under the foregoing subsection shall, if any obscene articles are seized under the warrant, also empower the seizure and removal of any documents found in the premises or, as the case may be, on the stall or vehicle which relate to a trade or business carried on at the premises or from the stall or vehicle.
- (3) Any articles seized under subsection (1) of this section shall be brought before a justice of the peace [...], and the justice before whom the articles are brought may thereupon issue a summons to the occupier of the premises or, as the case may be, the user of the stall or vehicle to appear on a day specified in the summons before a magistrates' court for that [...] area to show cause why the articles or any of them should not be forfeited; and if the court is satisfied, as respects any of the articles, that at the time when they were seized they were obscene articles kept for publication for gain, the court shall order those articles to be forfeited:

Provided that if the person summoned does not appear, the court shall not make an order unless service of the summons is proved.

- (4) In addition to the person summoned, any other person being the owner, author or maker of any of the articles brought before the court, or any other person through whose hands they had passed before being seized, shall be entitled to appear before the court on the day specified in the summons to show cause why they should not be forfeited. ,
- (5) [Where an order is made under this section for the forfeiture of any articles, any person who appeared, or was entitled to appear, to show cause against the making of the order may appeal to the Supreme Court within fourteen days after the day on which the order is made and no such order shall take effect until the expiration of the time hereby limited for appeal, or until the determination of the appeal, whichever shall be later.]
- (6) If as respects any articles brought before it the court does not order forfeiture, the court may if it thinks fit order the person on whose information the warrant for the seizure of the articles was issued to pay such costs as the court thinks reasonable to any person who has appeared before the court to show

cause why those articles should not be forfeited; and costs ordered to be paid under this subsection shall be enforceable as a civil debt.

(7) For the purposes of this section the question whether an article is obscene shall be determined on the assumption that copies of it would be published in any manner likely having regard to the circumstances in which it was found, but in no other manner.

(8) The [20 & 21 Vict. c. 83.] Obscene Publications Act, 1857, is hereby repealed, without prejudice, however, to the execution of any warrant issued thereunder before the commencement of this Act or to the taking of any proceedings in pursuance of a warrant so issued.

[**Note** the adaptations made in s3(1), s3(3) and the replacement of s3(5)]

4 Defence of the public good

(1) A person shall not be convicted of an offence against section two of this Act, and an order for forfeiture shall not be made under the foregoing section, if it is proved that publication of the article in question is justified as being for the public good on the ground that it is in the interests of science, literature, art or learning, or of other objects of general concern.

(2) It is hereby declared that the opinion of experts as to the literary, artistic, scientific or other merits of an article may be admitted in any proceedings under this Act either to establish or to negative the said ground

5 Citation, commencement and extent

(1) This Act may be cited as the Obscene Publications Act, 1959.

(2) This Act shall come into operation on the expiration of one month beginning with the date of the passing thereof.

(3) This Act shall not extend to Scotland or to Northern Ireland.

Notes:

1. Please see www.legislation.gov.uk website for the original Act and subsequent amendments and then consider it in the light of extent of application noted above and the Principal Adaptive Provisions.

2. Please note the Application of Enactments Ordinance 1962 section 2 states as follows:

'The enactments specified in the Schedule to this Ordinance are applied to the Colony to the extent and with the variations and modifications mentioned in the Schedule, and with the further modifications that any reference in any of the said enactments to "the date of passing of this Act" or any similar expression, shall be construed as a reference to the date of this Ordinance, any reference to the "High Court" shall be construed as a reference to the "Supreme Court" and any reference to the "Attorney General" or "Solicitor General" or "Director of Public Prosecutions" shall be construed as a reference to the "Colonial Secretary".

[in this version this section has been spaced out so as to aid intelligibility]

Disclaimers:

1. Nothing on this website should be taken as being a representation of what the Commissioner or Government of South Georgia and the South Sandwich Islands considers to be the laws of South Georgia and the South Sandwich Islands.
2. The Government cannot guarantee that links to any other website, including www.legislation.gov.uk will remain current, active or accurate.
3. The only official publication of the laws of South Georgia and the South Sandwich Islands is made in the *Gazette*.

If you consider anything stated on the website is in error please advise the Government by email: admin@gov.gs