

Prison Media Bill

[AS AMENDED IN PUBLIC BILL COMMITTEE]

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[AS AMENDED IN PUBLIC BILL COMMITTEE]

A

B I L L

TO

Prohibit the creation and uploading of unauthorised media content relating to prisons.

BE IT ENACTED by the King’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:—

England and Wales

1 Unauthorised photograph or sound-recording of the inside of a prison: England and Wales

- (1) Section 40D of the Prison Act 1952 (offences relating to prison security) is amended as follows. 5
- (2) In subsection (1), for the “or” at the end of paragraph (a) substitute—
- “(aa) takes a photograph of the inside of a prison from outside the prison, or”.
- (3) After subsection (1) insert—
- “(1A) For the purposes of subsection (1)(a)— 10
- (a) a photograph taken outside a prison of an image which is being transmitted from inside the prison by electronic communications for simultaneous reception outside the prison is to be treated as a photograph taken inside the prison, and
- (b) a sound-recording made outside a prison of sounds which are 15
- being transmitted by electronic communications from inside the prison for simultaneous reception outside the prison is to be treated as a sound-recording made inside the prison.”
- (4) Omit subsection (2).
- (5) After subsection (4) insert— 20
- “(4A) In proceedings for an offence under subsection (1)(aa) it is a defence for the accused to show that they did not know and had no reasonable cause to believe that the photograph was of the inside of a prison.”

- (6) In subsection (5), in paragraph (b), omit “not exceeding the statutory maximum”.

2 Unauthorised photographs and sound-recordings of prisons and prison workers: England and Wales

- (1) The Prison Act 1952 is amended as follows. 5

- (2) After section 40D insert—

“40DA Unauthorised photograph or sound-recording of a prison worker on prison land

- (1) A person is guilty of an offence if—
- (a) without authorisation the person takes a photograph, or makes a sound-recording, of a prison worker while the prison worker is on prison land, and 10
 - (b) the person intends the photograph or sound-recording to record a prison worker on prison land.
- (2) It is immaterial for the purposes of subsection (1) where the recording medium is located. 15
- (3) In proceedings for an offence under this section it is a defence for the accused to show that—
- (a) the accused reasonably believed that they had authorisation to do the act in respect of which the proceedings are brought, or 20
 - (b) in all the circumstances there was an overriding public interest which justified the doing of that act.
- (4) A person guilty of an offence under this section is liable on summary conviction to a fine.

40DB Unauthorised uploading of a photograph or sound-recording of a prison or prison worker 25

- (1) A person is guilty of an offence if—
- (a) without authorisation, the person uploads a photograph to an internet service, and
 - (b) the photograph— 30
 - (i) was taken inside a prison,
 - (ii) is of the inside of a prison, or
 - (iii) records a prison worker on prison land.
- (2) A person is guilty of an offence if—
- (a) without authorisation, the person uploads a sound-recording to an internet service, and 35
 - (b) the sound-recording—
 - (i) was made inside a prison, or
 - (ii) records a prison worker on prison land.

- (3) Subsection (1A) of section 40D (photograph or sound recording of a transmission from a prison) applies for the purposes of subsections (1)(b)(i) and (2)(b)(i) of this section as it applies for the purposes of subsection (1)(a) of that section.
- (4) In proceedings for an offence under this section, it is a defence for the accused to show that—
- (a) the accused did not know and had no reasonable cause to believe—
 - (i) in a case within subsection (1)(b)(i) or (2)(b)(i), that the photograph was taken or the sound-recording was made inside a prison;
 - (ii) in a case within subsection (1)(b)(ii), that the photograph was of the inside of a prison;
 - (iii) in a case within subsection (1)(b)(iii) or (2)(b)(ii), that the photograph or sound-recording recorded a prison worker on prison land,
 - (b) the accused reasonably believed that they had authorisation to do the act in respect of which the proceedings are brought, or
 - (c) in all the circumstances there was an overriding public interest which justified the doing of that act.
- (5) A person guilty of an offence under this section is liable on summary conviction to a fine.
- (6) In this section “internet service” has the meaning given by section 228 of the Online Safety Act 2023.”
- (3) In section 40E (interpretation of section 40D)—
- (a) in the heading, for “Section 40D” substitute “Sections 40D to 40DB”;
 - (b) in subsection (1), in the words before paragraph (a)—
 - (i) for “section 40D” substitute “sections 40D to 40DB”, and
 - (ii) for “that section” substitute “the section in question”;
 - (c) in subsection (6), for “section 40D” substitute “sections 40D to 40DB”;
 - (d) after subsection (6) insert—
 - “(7) In sections 40DA and 40DB—
 - “prison land” means —
 - (a) land vested in the Secretary of State by virtue of section 35(1), and
 - (b) other land in which the Secretary of State has an interest, or which is occupied by the Secretary of State, for a purpose connected with the provision, running or management of a prison;
 - “prison worker” means any of the following—
 - (a) a prison officer;
 - (b) a person certified as a prisoner custody officer under section 89(1) of the Criminal Justice Act 1991 who is authorised to perform custodial

- duties (within the meaning of section 89(3) of that Act);
- (c) any other person who (whether as a servant or agent of the Crown or otherwise) –
- (i) works in a prison, or 5
 - (ii) visits, or attends at, a prison for the purpose of the person’s work (including voluntary work).”
- (4) In section 40F(1) (offences under sections 40B to 40D: extension of Crown immunity) for “40D” substitute “40DB”. 10

Scotland

3 Unauthorised photographs, films and sound recordings of prisons and prison workers: Scotland

After section 41ZB of the Prisons (Scotland) Act 1989 insert –

“41ZC Unauthorised photograph, film or sound recording of a prison 15

- (1) A person commits an offence if, without authorisation –
- (a) the person takes a photograph, or makes a film or a sound recording, inside a prison, or
 - (b) the person takes a photograph, or makes a film, of the inside of a prison from outside the prison. 20
- (2) For the purposes of subsection (1)(a) –
- (a) a photograph taken outside a prison of an image which is being transmitted from inside the prison by electronic communications for simultaneous reception outside the prison is to be treated as a photograph taken inside the prison, 25
 - (b) a film made outside a prison of an image which is being transmitted from inside the prison by electronic communications for simultaneous reception outside the prison is to be treated as a film made inside the prison, and
 - (c) a sound recording made outside a prison of sounds which are being transmitted from inside the prison by electronic communications for simultaneous reception outside the prison is to be treated as a sound recording made inside the prison. 30
- (3) In proceedings for an offence under this section it is a defence for the accused person to show that – 35
- (a) the person reasonably believed that the person was acting in circumstances to which an authorisation applied (even though no authorisation did apply), or
 - (b) in the circumstances there was an overriding public interest which justified the person’s actions. 40
- (4) In proceedings for an offence under subsection (1)(b) it is a defence for the accused person to show that they did not know and had no

reasonable cause to believe that the photograph or film was of the inside of a prison.

- (5) A person who commits an offence under this section is liable—
- (a) on conviction on indictment, to imprisonment for a period not exceeding 2 years or to a fine (or to both); 5
 - (b) on summary conviction, to imprisonment for a period not exceeding 12 months or to a fine not exceeding the statutory maximum (or to both).
- (6) In this section “electronic communications” has the same meaning as in the Electronic Communications Act 2000 (see section 15(1) of that Act). 10

41ZD Unauthorised photograph, film or sound recording of a prison worker on prison land

- (1) A person commits an offence if—
- (a) without authorisation the person takes a photograph, or makes a film or a sound recording, of a prison worker while the prison worker is on prison land, and 15
 - (b) the person intends the photograph, film or sound recording to record a prison worker on prison land.
- (2) It is immaterial for the purposes of subsection (1) where the recording medium is located. 20
- (3) In proceedings for an offence under this section it is a defence for the accused person to show that—
- (a) the person reasonably believed that the person was acting in circumstances to which an authorisation applied (even though no authorisation did apply), or 25
 - (b) in the circumstances there was an overriding public interest which justified the person’s actions.
- (4) A person who commits an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale. 30

41ZE Uploading of a photograph, film or sound recording of a prison or prison worker

- (1) A person commits an offence if—
- (a) without authorisation, the person uploads a photograph or film to an internet service, and 35
 - (b) the photograph or film—
 - (i) was taken or made inside a prison,
 - (ii) is of the inside of a prison, or
 - (iii) records a prison worker on prison land. 40
- (2) A person commits an offence if—

- (a) without authorisation, the person uploads a sound recording to an internet service, and
 - (b) the sound recording—
 - (i) was made inside a prison, or
 - (ii) records a prison worker on prison land. 5
- (3) Subsection (2) of section 41ZC (photograph, film or sound recording of a transmission from a prison) applies for the purposes of subsections (1)(b)(i) and (2)(b)(i) of this section as it applies for the purposes of subsection (1)(a) of that section.
- (4) In proceedings for an offence under this section, it is a defence for the accused person to show that— 10
 - (a) the person did not know and had no reasonable cause to believe—
 - (i) in a case within subsection (1)(b)(i) or (2)(b)(i), that the photograph was taken or the film or sound recording was made inside a prison; 15
 - (ii) in a case within subsection (1)(b)(ii), that the photograph or film was of the inside of a prison;
 - (iii) in a case within subsection (1)(b)(iii) or (2)(b)(ii), that the photograph, film or sound recording recorded a prison worker on prison land, 20
 - (b) the person reasonably believed that the person was acting in circumstances to which an authorisation applied (even though no authorisation did apply), or
 - (c) in the circumstances there was an overriding public interest which justified the person’s actions. 25
- (5) A person who commits an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (6) In this section “internet service” has the meaning given by section 228 of the Online Safety Act 2023. 30

41ZF Sections 41ZC to 41ZE: meaning of “authorisation” and other interpretation

- (1) In sections 41ZC to 41ZE “authorisation” means a written authorisation given for the purposes of the section in question— 35
 - (a) in favour of any specified person or person of a specified description,
 - (b) for a specified purpose, and
 - (c) by—
 - (i) the governor or director of a prison in relation to activities at that prison, or 40
 - (ii) the Scottish Ministers in relation to activities at any specified prison.

- (2) In subsection (1) “specified” means specified in the authorisation.
- (3) In sections 41ZC to 41ZE—
 “film” has the same meaning as in Part 1 of the Copyright, Designs and Patents Act 1988 (see section 5B(1) of that Act);
 “photograph” has the same meaning as in that Part (see section 4(2) of that Act);
 “sound recording” has the same meaning as in that Part (see section 5A(1) of that Act). 5
- (4) In sections 41ZD and 41ZE “prison worker” means any of the following— 10
- (a) an officer of a prison;
- (b) a person certified as a prisoner custody officer under section 114(1) of the Criminal Justice and Public Order Act 1994 who is authorised to perform custodial duties (within the meaning of section 117(1) of that Act); 15
- (c) any other person who (whether as a servant or agent of the Crown or otherwise)—
- (i) works in a prison, or
- (ii) visits, or attends at, a prison for the purposes of the person’s work (including voluntary work). 20
- (5) In sections 41ZD and 41ZE “prison land” means—
- (a) a prison, or
- (b) any land which—
- (i) is occupied by a person for a purpose connected with the provision, running or management of a prison, and 25
- (ii) has been declared by the Scottish Ministers to be prison land in a declaration for the purposes of the section in question.
- (6) A declaration under subsection (5)(b)(ii) must be made in writing and published in such manner as the Scottish Ministers consider appropriate. 30

41ZG Offences under sections 41ZC to 41ZE: extension of Crown immunity

- (1) An individual who—
- (a) works at a prison,
- (b) does not do that work as a servant or agent of the Crown, and 35
- (c) has been designated by the Scottish Ministers for the purposes of this section,
- is to be treated for the purposes of the application of sections 41ZC to 41ZE as if the individual were doing that work as a servant or agent of the Crown. 40
- (2) A designation for the purposes of this section may be given—
- (a) in relation to persons specified in the designation or persons of a description so specified, and

- (b) in relation to all work falling within subsection (1)(a) or only in relation to such activities as the designation may provide.”

Northern Ireland

- 4 Unauthorised photograph or sound-recording of the inside of a prison: Northern Ireland** 5
- (1) Section 34C of the Prison Act (Northern Ireland) 1953 (offences relating to prison security) is amended as follows.
- (2) In subsection (1), for the “or” at the end of paragraph (a) substitute—
- “(aa) takes a photograph of the inside of a prison from outside the prison, or”.
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- (3) After subsection (1) insert—
- “(1A) For the purposes of subsection (1)(a)—
- (a) a photograph taken outside a prison of an image which is being transmitted from inside the prison by electronic communications for simultaneous reception outside the prison is to be treated as a photograph taken inside the prison, and
- (b) a sound-recording made outside a prison of sounds which are being transmitted from inside the prison by electronic communications for simultaneous reception outside the prison is to be treated as a sound-recording made inside the prison.”
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- (4) Omit subsection (2).
- (5) After subsection (4) insert—
- “(4A) In proceedings for an offence under subsection (1)(aa) it is a defence for the accused to show that they did not know and had no reasonable cause to believe that the photograph was of the inside of a prison.”
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- 5 Unauthorised photographs and sound-recordings of prisons and prison workers: Northern Ireland**
- After section 34C of the Prison Act (Northern Ireland) 1953 insert—
- “34D Unauthorised photograph or sound-recording of a prison worker on prison land** 30
- (1) A person is guilty of an offence if—
- (a) without authorisation the person takes a photograph, or makes a sound-recording, of a prison worker while the prison worker is on prison land, and
- (b) the person intends the photograph or sound-recording to record a prison worker on prison land.
- 35
- (2) It is immaterial for the purposes of subsection (1) where the recording medium is located.

- (3) In proceedings for an offence under this section it is a defence for the accused to show that—
- (a) the accused reasonably believed that they had authorisation to do the act in respect of which the proceedings are brought, or
 - (b) in all the circumstances there was an overriding public interest which justified the doing of that act. 5
- (4) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- 34E Unauthorised uploading of a photograph or sound-recording of a prison or prison worker 10**
- (1) A person is guilty of an offence if—
- (a) without authorisation, the person uploads a photograph to an internet service, and
 - (b) the photograph—
 - (i) was taken inside a prison, 15
 - (ii) is of the inside of a prison, or
 - (iii) records a prison worker on prison land.
- (2) A person is guilty of an offence if—
- (a) without authorisation, the person uploads a sound-recording to an internet service, and 20
 - (b) the sound-recording—
 - (i) was made inside a prison, or
 - (ii) records a prison worker on prison land.
- (3) Subsection (1A) of section 34C (photograph or sound recording of a transmission from a prison) applies for the purposes of subsections (1)(b)(i) and (2)(b)(i) of this section as it applies for the purposes of subsection (1)(a) of that section. 25
- (4) In proceedings for an offence under this section, it is a defence for the accused to show that—
- (a) the accused did not know and had no reasonable cause to believe—
 - (i) in a case within subsection (1)(b)(i) or (2)(b)(i), that the photograph was taken or the sound-recording was made inside a prison;
 - (ii) in a case within subsection (1)(b)(ii), that the photograph was of the inside of a prison; 35
 - (iii) in a case within subsection (1)(b)(iii) or (2)(b)(ii), that the photograph or sound-recording recorded a prison worker on prison land,
 - (b) the accused reasonably believed that they had authorisation to do the act in respect of which the proceedings are brought, or
 - (c) in all the circumstances there was an overriding public interest which justified the doing of that act. 40

- (5) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (6) In this section “internet service” has the meaning given by section 228 of the Online Safety Act 2023.

34F Interpretation of sections 34D to 34E

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In sections 34D and 34E—

“authorisation” means authorisation given for the purposes of the section in question and subsections (6) to (8) of section 34C apply in relation to authorisations so given as they apply to authorisations given for the purposes of that section;

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“photograph” has the meaning given by section 34C(11);

“prison land” means —

- (a) land vested in the Department for a purpose connected with the provision, running or management of a prison, and
- (b) other land in which the Department has an interest, or which is occupied by the Department, for a purpose connected with the provision, running or management of a prison;

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“prison worker” means any of the following—

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- (a) a prison officer;
- (b) any other person who (whether as a servant or agent of the Crown or otherwise)—
- (i) works in a prison, or
- (ii) visits, or attends at, a prison for the purpose of the person’s work (including voluntary work);

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“sound-recording” has the meaning given by section 34C(11).”

General

6 Extent, commencement and short title

- (1) Sections 1 and 2 of this Act extend to England and Wales only.
- (2) Section 3 of this Act extends to Scotland only.
- (3) Sections 4 and 5 of this Act extend to Northern Ireland only.
- (4) This section extends to England and Wales, Scotland and Northern Ireland.
- (5) Except as provided by subsections (6), (7) and (9), this Act comes into force on such day as the Secretary of State may by regulations made by statutory instrument appoint.
- (6) Section 3 so far as it—
- (a) inserts sections 41ZC and 41ZD into the Prisons (Scotland) Act 1989, and

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- (b) inserts sections 41ZF and 41ZG into that Act as those sections apply to section 41ZC or 41ZD of that Act,
comes into force on such day as the Scottish Ministers may by regulations appoint.
- (7) The following provisions come into force on such day as the Department of Justice in Northern Ireland may by order appoint— 5
- (a) section 4;
- (b) section 5 so far as it—
- (i) inserts section 34D into the Prison Act (Northern Ireland) 1953, and 10
- (ii) inserts section 34F into that Act as that section applies to section 34D of that Act.
- (8) Regulations under subsection (5) or (6), and orders under subsection (7), may appoint different days for different purposes or areas.
- (9) This section comes into force on the day on which this Act is passed. 15
- (10) The Secretary of State may by regulations made by statutory instrument make transitional, transitory or saving provision in connection with the coming into force of any provision of this Act, other than a provision mentioned in subsection (6) or (7).
- (11) The Scottish Ministers may by regulations make transitional, transitory or saving provision in connection with the coming into force of the provision mentioned in subsection (6). 20
- (12) The Department of Justice in Northern Ireland may by order make transitional, transitory or saving provision in connection with the coming into force of a provision mentioned in subsection (7). 25
- (13) The power to make regulations under subsection (10), or (11), and the power to make orders under subsection (12), includes power to make different provision for different purposes or areas.
- (14) For regulations made under subsection (6) or (11) by the Scottish Ministers, see section 27 of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10) (Scottish statutory instruments). 30
- (15) A power of the Department of Justice in Northern Ireland to make an order under subsection (7) or (12) is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/1573 (N.I. 12)). 35
- (16) This Act may be cited as the Prison Media Act 2024.

Prison Media Bill

[AS AMENDED IN PUBLIC BILL COMMITTEE]

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B I L L

TO

Prohibit the creation and uploading of unauthorised media content relating to prisons.

Presented by Katherine Fletcher

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