

# NEW CHILD PORNOGRAPHY

## LAWS – 2004

### Government clamps down on child pornography

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**By Douglas Carew**

Child pornography becomes one of the most serious crimes in South Africa from next week. Perpetrators will face prison terms of up to 30 years.

In a series of hard-hitting amendments to the Film and Publications Act:

- The maximum jail term for producing, distributing and possessing child pornography has been raised from five to 30 years;
- Internet service providers will face criminal prosecution if they fail to block access to child pornography sites after members of the public or the police have informed them of their existence;
- People who repair computers will be held criminally liable if they do not report clients whose computer hard drives contain child porn, and so will photography shops that fail to report child pornography on films sent in for developing and printing.

The amendments will be signed into law by President Thabo Mbeki next week, two years after Nosiviwe Mapisa-Nqakula, the minister of home affairs, who was then a deputy minister, promised in an August 2002 interview with Independent Newspapers to crack down on child pornographers.

Mapisa-Nqakula's department is responsible for enforcing the Film and Publications Act, which governs child pornography. The body set up to administer the act is the Film and Publications Board, which is headed by Iyavar Chetty, the acting chief executive.

Chetty said the production, possession and distribution of child pornography would now be three separate offences. "The courts will now be able to sentence per count, rather than treat production, possession and distribution as one offence."

With the maximum sentence for contravening the act increased to 10 years, this meant that theoretically a child pornographer who produced, possessed and distributed banned material could be sent to jail for 30 years instead of the previous maximum sentence of five years.

Internet service providers would have to register with the board and co-operate in blocking access to child pornography on the internet. "When they are advised to do so by the police or if they have knowledge of child porn sites they must take action," Chetty said.

He stressed that this did not mean that internet service providers would be monitoring their clients' surfing habits, but once they got information about a child porn site they had an obligation to act by blocking access to that site.

"It is not a Big Brother thing of checking up on what you are surfing."

Another addition to the act is that South African citizens who commit child pornography-related offences in other countries can be prosecuted when they return home.

Members of the public who are aware of child pornography activities could be held criminally liable if they do not report those activities to the police.

Chetty said the act's definition of child pornography had also been redefined as part of the amendments. "Previously the definition did not include a ban on images of the anal area. It stopped at the genitals. But we know that paedophiles are also interested in the anal area of children."

Chetty also reminded the public that the only people allowed to possess child pornography were those doing bona fide research, and they had to get permission from the Film and Publications Board.

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