

Possession of a Child Abuse Computer Game¹ (Offences prior to 4 April 2005)

The prosecution must prove that:

1. The defendant knowingly had in his possession;

Possession involves custody or control of the thing and/or ability or right to obtain custody or control of the thing.²

2. A child abuse computer game.

“Child abuse computer game” means a computer game that is an objectionable computer game because it depicts a person who is, or who looks like a child under 16 years (whether the person is engaged in sexual activity or not) in a way likely to cause offence to a reasonable adult.³

¹ *Classification of Computer Games and Images Act 1995.*

² See also remarks of Lord Scarman in *Boyesen* [\[1982\] AC 768](#) at 773-774 as to the meaning of “possession” at common law, quoted with approval by the Court of Appeal in *R v Shew* [\[1998\] QCA 333](#). Proof of possession in a case, in which joint possession is not alleged, requires proof that others were, or could be, excluded from control of the thing in question. *R v Campbell* (2009) [195 A Crim R 374](#).

³ Schedule 2 of Dictionary.