



Sexual Offences (Scotland) Act 2009

2009 asp 9

PART 4

CHILDREN

Older children

36 Voyeurism towards an older child

- (1) If a person (“A”), who has attained the age of 16 years, does any of the things mentioned in subsections (2) to (5) in relation to a child (“B”) who—
 - (a) has attained the age of 13 years, but
 - (b) has not attained the age of 16 years,then A commits an offence, to be known as the offence of voyeurism towards an older child.
- (2) The first thing is that A, for a purpose mentioned in subsection (6), observes B doing a private act.
- (3) The second thing is that A operates equipment with the intention of enabling A or another person (“C”), for a purpose mentioned in subsection (7), to observe B doing a private act.
- (4) The third thing is that A records B doing a private act with the intention that A or another person (“C”), for a purpose mentioned in subsection (7), will look at an image of B doing the act.
- [^{F1}(4A) The fourth thing is that A operates equipment beneath B's clothing with the intention of enabling A or another person (“C”), for a purpose mentioned in subsection (7), to observe—
 - (a) B's genitals or buttocks (whether exposed or covered with underwear), or
 - (b) the underwear covering B's genitals or buttocks,in circumstances where the genitals, buttocks or underwear would not otherwise be visible.
- (4B) The fifth thing is that A records an image beneath B's clothing of—
 - (a) B's genitals or buttocks (whether exposed or covered with underwear), or

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- (b) the underwear covering B's genitals or buttocks, in circumstances where the genitals, buttocks or underwear would not otherwise be visible, with the intention that A or another person (“C”), for a purpose mentioned in subsection (7), will look at the image.]
- (5) The [^{F2}sixth] thing is that A—
- (a) installs equipment, or
 - [^{F3}(b) constructs or adapts a structure or part of a structure, with the intention of enabling A or another person to do an act referred to in subsection (2), (3), (4), (4A) or (4B).]
- (6) The purposes referred to in subsection (2) are—
- (a) obtaining sexual gratification,
 - (b) humiliating, distressing or alarming B.
- (7) The purposes referred to in subsections (3) [^{F4}, (4), (4A) and (4B)] are—
- (a) obtaining sexual gratification (whether for A or C),
 - (b) humiliating, distressing or alarming B.
- (8) Section 10 applies for the purposes of this section as it applies for the purposes of section 9 (the references in that section to section 9(3) [^{F5}, (4A)] and (5) being construed as references to subsections (3) [^{F6}, (4A)] and (5) of this section).

Textual Amendments

- F1** S. 36(4A)(4B) inserted (1.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), ss. 43(5)(a), 206; S.S.I. 2010/357, art. 2(b)
- F2** Word in s. 36(5) substituted (1.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), ss. 43(5)(b)(i), 206; S.S.I. 2010/357, art. 2(b)
- F3** S. 36(5)(b) substituted (1.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), ss. 43(5)(b)(ii), 206; S.S.I. 2010/357, art. 2(b)
- F4** Words in s. 36(7) substituted (1.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), ss. 43(5)(c), 206; S.S.I. 2010/357, art. 2(b)
- F5** Word in s. 36(8) inserted (1.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), ss. 43(5)(d)(i), 206; S.S.I. 2010/357, art. 2(b)
- F6** Word in s. 36(8) inserted (1.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), ss. 43(5)(b)(ii), 206; S.S.I. 2010/357, art. 2(b)

Changes to legislation:

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