



# Sexual Offences (Scotland) Act 2009

## 2009 asp 9

### PART 4

#### CHILDREN

##### *Older children*

#### **32 Causing an older child to be present during a sexual activity**

- (1) If a person (“A”), who has attained the age of 16 years either—
- (a) intentionally engages in a sexual activity and for a purpose mentioned in subsection (2) does so in the presence of a child (“B”), who—
    - (i) has attained the age of 13 years, but
    - (ii) has not attained the age of 16 years, or
  - (b) intentionally, and for a purpose mentioned in subsection (2) causes B to be present while a third person engages in such an activity,
- then A commits an offence, to be known as the offence of causing an older child to be present during a sexual activity.
- (2) The purposes are—
- (a) obtaining sexual gratification,
  - (b) humiliating, distressing or alarming B.
- (3) Without prejudice to the generality of subsection (1), the reference—
- (a) in paragraph (a) of that subsection to A engaging in a sexual activity in the presence of B, includes a reference to A engaging in it in a place in which A can be observed by B other than by B looking at an image, and
  - (b) in paragraph (b) of that subsection to B being present while a third person engages in such an activity, includes a reference to B being in a place from which the third person can be so observed by B.

**Changes to legislation:**

There are currently no known outstanding effects for the Sexual Offences (Scotland) Act 2009, Section 32.