



Civic Government (Scotland) Act 1982

1982 CHAPTER 45

PART IV

OFFENCES, POWERS OF CONSTABLES, ETC.

Offences of annoying, offensive, obstructive or dangerous behaviour

51 **Obscene material.**

- (1) Subject to subsection (4) below, any person who displays any obscene material in any public place or in any other place where it can be seen by the public shall be guilty of an offence under this section.
- (2) Subject to subsection (4) below, any person who publishes, sells or distributes or, with a view to its eventual sale or distribution, makes, prints, has or keeps any obscene material shall be guilty of an offence under this section.

[^{F1}(2A) Subject to subsection (4) below, any person who—

- (a) is responsible for the inclusion of any obscene material in a programme included in a programme service; or
- (b) with a view to its eventual inclusion in a programme so included, makes, prints, has or keeps any obscene material,

shall be guilty of an offence under this section.]

[^{F2}(3) A person guilty of an offence under this section is liable—

- (a) on summary conviction, to imprisonment for a period not exceeding 12 months or to a fine not exceeding the statutory maximum or to both, or
- (b) on conviction on indictment—
 - (i) in a case where the obscene material is or includes an extreme pornographic image, to imprisonment for a period not exceeding 5 years or to a fine or to both, or
 - (ii) in any other case, to imprisonment for a period not exceeding 3 years or to a fine or to both.]

Changes to legislation: Civic Government (Scotland) Act 1982, Section 51 is up to date with all changes known to be in force on or before 21 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (4) A person shall not be convicted of an offence under this section if he proves that he had used all due diligence to avoid committing the offence.
- (5) Under an indictment for or on a complaint of a breach of subsection (1) above, the court may, if satisfied that the person accused is guilty of an offence under section 1(1) of the ^{M1}Indecent Displays (Control) Act 1981 (offence of public display of indecent matter), convict him of a breach of the said section 1(1).
- (6) Nothing in this section applies in relation to any matter—
- (a) ^{F3}
- (b) included in a performance of a play (within the meaning of the ^{M2}Theatres Act 1968).
- (7) For section 5(4)(b) of the Indecent Displays (Control) Act 1981 (saving) there shall be substituted the following—
- “(b) section 51 of the Civic Government (Scotland) Act 1982.”
- (8) In this section—
- [^{F4}“extreme pornographic image” is to be construed in accordance with section 51A;]
- “material” includes any book, magazine, bill, paper, print, film, tape, disc or other kind of recording (whether of sound or visual images or both), photograph, drawing, painting, representation, model or figure . . . ^{F5};
- “photograph” includes the negative as well as the positive version;
- “public place” has the same meaning as in section 133 of this Act except that it includes any place to which at the material time the public are permitted to have access, whether on payment or otherwise;
- ^{F6} . . .
- [^{F7} “programme” and “programme service” have the same meaning as in the Broadcasting Act 1990;]
- and the reference to publishing includes a reference to . . . ^{F8} playing, projecting or otherwise reproducing [^{F9}, or, where the material is data stored electronically, transmitting that data].

Textual Amendments

- F1** S. 51(2A) inserted by [Broadcasting Act 1990 \(c. 42, SIF 96\)](#), **ss. 4(6)**, 87(6), 163(2)
- F2** S. 51(3) substituted (28.3.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), **ss. 42(1)(a)**, 206(1); S.S.I. 2011/178, art. 2, sch. (with sch.)
- F3** S. 51(6)(a) repealed by [Broadcasting Act 1990 \(c. 42, SIF 96\)](#), ss. 163(3), 203(3), Sch. 21 (with ss. 4(6), 87(6), **Sch. 12 Pt. II para. 1**)
- F4** Words in s. 51(8) inserted (28.3.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), **ss. 42(1)(b)(i)**, 206(1); S.S.I. 2011/178, art. 2, sch. (with sch.)
- F5** Words added by [Cable and Broadcasting Act 1984 \(c. 46, SIF 96\)](#), **s. 26(b)** and repealed by [Broadcasting Act 1990 \(c. 42, SIF 96\)](#), ss. 163(4)(a), 203(3), Sch. 21 (with ss. 4(6), 87(6), **Sch. 12 Pt. II para. 1**)
- F6** Words in s. 51(8) repealed (28.3.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), **ss. 42(1)(b)(ii)**, 206(1); S.S.I. 2011/178, art. 2, sch. (with sch.)
- F7** Definitions inserted by [Broadcasting Act 1990 \(c. 42, SIF 96\)](#), **ss. 4(6)**, 87(6), 163(4)(b)

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- F8** Word inserted by [Cable and Broadcasting Act 1984 \(c. 46, SIF 96\)](#), [s. 26\(c\)](#) and repealed by [Broadcasting Act 1990 \(c. 42, SIF 96\)](#), [ss. 163\(4\)\(c\), 203\(3\)](#), [Sch. 21](#) (with [ss. 4\(6\), 87\(6\)](#), [Sch. 12 Pt. II para. 1](#))
- F9** Words in s. 51(8) inserted (3.2.1995) by [1994 c. 33, s. 168\(1\)](#), [Sch. 9 para. 20](#); [S.I. 1995/127, art. 2](#)

Modifications etc. (not altering text)

- C1** The text of [ss. 16, 18\(11\), 51\(7\) and 52\(6\)](#) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Marginal Citations

- M1** [1981 c. 42.](#)
- M2** [1968 c. 54.](#)

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 22(1)(c) repealed by [2015 asp 10 s. 65\(3\)](#)
- s. 49(9) added by [2010 asp 13 s. 200\(1\)\(b\)](#)