



Civic Government (Scotland) Act 1982

1982 CHAPTER 45

PART IV

OFFENCES, POWERS OF CONSTABLES, ETC.

Offences of annoying, offensive, obstructive or dangerous behaviour

52 Indecent photographs etc. of children

- (1) Any person who—
- (a) takes, or permits to be taken, any indecent photograph of a child (meaning, in this section a person under the age of 16);
 - (b) distributes or shows such an indecent photograph ;
 - (c) has in his possession such an indecent photograph with a view to its being distributed or shown by himself or others; or
 - (d) publishes or causes to be published any advertisement likely to be understood as conveying that the advertiser distributes or shows such an indecent photograph, or intends to do so
- shall be guilty of an offence under this section.
- (2) In proceedings under this section a person is to be taken as having been a child at any material time if it appears from the evidence as a whole that he was then under the age of 16.
- (3) A person guilty of an offence under this section shall be liable—
- (a) on summary conviction, to imprisonment for a period not exceeding 3 months or to a fine not exceeding the prescribed sum within the meaning of section 289B of the Criminal Procedure (Scotland) Act 1975 (at the passing of this Act £1,000) or to both ;
 - (b) on conviction on indictment, to imprisonment for a period not exceeding two years or to a fine or to both.

Status: This is the original version (as it was originally enacted).

- (4) For the purposes of this section, a person is to be regarded as distributing an indecent photograph if he parts with possession of it to, or exposes or offers it for acquisition by, another person.
- (5) Where a person is charged with an offence under subsection (1)(b) or (c) above, it shall be a defence for him to prove—
- (a) that he had a legitimate reason for distributing or showing the photograph or (as the case may be) having it in his possession ; or
 - (b) that he had not himself seen the photograph and did not know, nor had any cause to suspect, it to be indecent.
- (6) In paragraph 2 of the Schedule to the Visiting Forces Act 1952 (offences against the person in the case of which a member of a visiting force is in certain circumstances not liable to be tried by a United Kingdom court), the word " and " immediately preceding sub-paragraph (b)(iii) shall be omitted and after the said sub-paragraph (i)(iii) there shall be added—
- “(iv) section 52(1)(a) of the Civic Government (Scotland) Act 1982.”.
- (7) References in the Criminal Procedure (Scotland) Act 1975 (except in sections 171 and 368 thereof) to the offences mentioned in Schedule 1 to that Act shall include an offence under subsection (1)(a) above.
- (8) In this section—
- (a) references to an indecent photograph include an indecent film, a copy of an indecent photograph or film and an indecent photograph comprised in a film;
 - (b) a photograph (including one comprised in a film) shall, if it shows a child and is indecent, be treated for all purposes of this section as an indecent photograph of a child;
 - (c) references to a photograph include the negative as well as the positive version ;
 - (d) " film " includes any form of video-recording.