

PROTECTION OF CHILDREN AND PREVENTION OF SEXUAL OFFENCES (SCOTLAND) ACT 2005

EXPLANATORY NOTES

THE ACT – COMMENTARY ON SECTIONS

Section 13 – Sections 10 to 12: supplementary

39. Subsection (1) provides a definition of being involved in pornography, as used in sections 10 to 12.
40. Subsection (2) provides a definition of “provider of sexual services” and “provision of sexual services”, as used in sections 10 to 12. Subsection (3) provides a definition of “payment” for the purposes of the definition of “provider of sexual services” given by subsection (1). Subsection (4) provides a definition of “sexual services” for the purposes of subsections (2) and (3).
41. Subsection (5) provides that a person does not commit one of the offences in sections 10 to 12 solely by doing something within section 52(1) or 52A(1) of the Civic Government (Scotland) Act 1982. These offences relate to the taking, possession and distribution of indecent images of a child, and are amended by section 16 of this Act to cover images of children under 18. As a result, while taking an indecent photograph of a person under 18 would be an offence under section 52(1) of the 1982 Act this would not in itself constitute the offence of causing a child to be involved in pornography. Further behaviour – such as reaching an agreement that the child will receive payment in exchange for posing for the photographs - would have to occur before proceedings could be taken under sections 10, 11 or 12.