

SEXUAL OFFENCES (SCOTLAND) ACT 2009

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 4 – Children

Older Children

Section 36 – Voyeurism towards an older child

99. This section creates the offence of “voyeurism towards an older child”. Subsection (1) provides that the offence is committed if a person does any of the things mentioned in subsections (2) to (5) in relation to an older child. The offence may only be committed by a person who is 16 years or over.
100. Subsection (2) provides that a person commits an offence if that person observes an older child engaging in a private act. Subsection (3) provides that a person commits an offence if that person operates equipment with the intention of enabling himself or another person to observe an older child engaging in a private act. Subsection (4) provides that a person commits an offence if that person records an older child engaging in a private act with the intention that he or another person will look at an image of the older child doing the act. Subsection (5) provides that a person commits an offence if that person installs equipment (such as a video camera) or constructs, or adapts a structure or part of a structure (e.g. by drilling a “peep hole”) with the intention of enabling himself, or a third person, to commit any of the offences in subsections (2) to (4).
101. Subsections (6) and (7) provide that an offence under subsections (2) to (4) is committed only where the perpetrator’s purpose is to obtain sexual gratification (whether for himself or a third person in the case of the offences at subsections (3) and (4)) or to cause humiliation, distress or alarm to the child. Subsection (8) provides that the definitions of various terms at section 10 apply to this section as they apply to the offence at section 9.