



# Criminal Justice and Licensing (Scotland) Act 2010

2010 asp 13

## PART 2

### CRIMINAL LAW

#### *Sexual offences*

#### **43 Voyeurism: additional forms of conduct**

(1) The Sexual Offences (Scotland) Act 2009 (asp 9) is amended as follows.

(2) In section 9 (voyeurism)—

(a) after subsection (4), insert—

“(4A) The fourth thing is that A—

- (a) without another person (“B”) consenting, and
- (b) without any reasonable belief that B consents,

operates equipment beneath B's clothing with the intention of enabling A or another person (“C”), for a purpose mentioned in subsection (7), to observe B's genitals or buttocks (whether exposed or covered with underwear) or the underwear covering B's genitals or buttocks, in circumstances where the genitals, buttocks or underwear would not otherwise be visible.

(4B) The fifth thing is that A—

- (a) without another person (“B”) consenting, and
- (b) without any reasonable belief that B consents,

records an image beneath B's clothing of B's genitals or buttocks (whether exposed or covered with underwear) or the underwear covering B's genitals or buttocks, in circumstances where the genitals, buttocks or underwear would not otherwise be visible, with the intention that A or another person (“C”), for a purpose mentioned in subsection (7), will look at the image.”

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*Changes to legislation: There are currently no known outstanding effects for the Criminal Justice and Licensing (Scotland) Act 2010, Section 43. (See end of Document for details)*

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- (b) in subsection (5)—
    - (i) for “fourth” substitute “ sixth ”, and
    - (ii) for paragraph (b), substitute—
      - “(b) constructs or adapts a structure or part of a structure, with the intention of enabling A or another person to do an act referred to in subsection (2), (3), (4), (4A) or (4B).”, and
  - (c) in subsection (7), for “and (4)” substitute “ , (4), (4A) and (4B) ”.
- (3) In section 10(2) (interpretation of section 9), after “section 9(3)” insert “ and (4A) ”.
- (4) In section 26 (voyeurism towards a young child)—
- (a) after subsection (4), insert—
    - “(4A) The fourth thing is that A operates equipment beneath B's clothing with the intention of enabling A or another person (“C”), for a purpose mentioned in subsection (7), to observe—
      - (a) B's genitals or buttocks (whether exposed or covered with underwear), or
      - (b) the underwear covering B's genitals or buttocks,
 in circumstances where the genitals, buttocks or underwear would not otherwise be visible.
    - (4B) The fifth thing is that A records an image beneath B's clothing of—
      - (a) B's genitals or buttocks (whether exposed or covered with underwear), or
      - (b) the underwear covering B's genitals or buttocks,
 in circumstances where the genitals, buttocks or underwear would not otherwise be visible, with the intention that A or another person (“C”), for a purpose mentioned in subsection (7), will look at the image.”,
  - (b) in subsection (5)—
    - (i) for “fourth” substitute “ sixth ”, and
    - (ii) for paragraph (b), substitute—
      - “(b) constructs or adapts a structure or part of a structure, with the intention of enabling A or another person to do an act referred to in subsection (2), (3), (4), (4A) or (4B).”,
  - (c) in subsection (7), for “and (4)” substitute “ , (4), (4A) and (4B) ”, and
  - (d) in subsection (8)—
    - (i) after “section 9(3)” insert “ , (4A) ”, and
    - (ii) after “subsections (3)” insert “ , (4A) ”.
- (5) In section 36 (voyeurism towards an older child)—
- (a) after subsection (4), insert—
    - “(4A) The fourth thing is that A operates equipment beneath B's clothing with the intention of enabling A or another person (“C”), for a purpose mentioned in subsection (7), to observe—
      - (a) B's genitals or buttocks (whether exposed or covered with underwear), or
      - (b) the underwear covering B's genitals or buttocks,

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in circumstances where the genitals, buttocks or underwear would not otherwise be visible.

(4B) The fifth thing is that A records an image beneath B's clothing of—

- (a) B's genitals or buttocks (whether exposed or covered with underwear), or
- (b) the underwear covering B's genitals or buttocks,

in circumstances where the genitals, buttocks or underwear would not otherwise be visible, with the intention that A or another person (“C”), for a purpose mentioned in subsection (7), will look at the image.”

(b) in subsection (5)—

- (i) for “fourth” substitute “ sixth ”, and
- (ii) for paragraph (b), substitute—

“(b) constructs or adapts a structure or part of a structure, with the intention of enabling A or another person to do an act referred to in subsection (2), (3), (4), (4A) or (4B).”

(c) in subsection (7), for “and (4)” substitute “ , (4), (4A) and (4B) ”, and

(d) in subsection (8)—

- (i) after “section 9(3)” insert “ , (4A) ”, and
- (ii) after “subsections (3)” insert “ , (4A) ”.

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#### Commencement Information

**II** S. 43 in force at 1.12.2010 by [S.S.I. 2010/357](#), **art. 2(b)**

**Changes to legislation:**

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