



# Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005

## 2005 asp 9

### *Sexual services of children and child pornography*

#### **9 Paying for sexual services of a child**

- (1) A person (“A”) commits an offence if—
  - (a) A intentionally obtains for himself or herself the sexual services of another person (“B”);
  - (b) before obtaining those services, A—
    - (i) makes or promises payment for those services to B or to a third person; or
    - (ii) knows that another person has made or promised such a payment; and
  - (c) either—
    - (i) B is aged under 18, and A does not reasonably believe that B is aged 18 or over; or
    - (ii) B is aged under 13.
- (2) In subsection (1)(b) above, “payment” means any financial advantage, including the discharge of an obligation to pay or the provision of goods or services (including sexual services) gratuitously or at a discount.
- (3) For the purposes of subsections (1) and (2) above, “sexual services” are—
  - (a) the performance of sexual activity; or
  - (b) the performance of any other activity that a reasonable person would, in all the circumstances, consider to be for the purpose of providing sexual gratification, and a person's sexual services are obtained where what is obtained is the performance of such an activity by the person.
- (4) A person guilty of an offence under this section in respect of a person aged 16 or over is liable—
  - (a) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum or both;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding 7 years [F1 or a fine or both].

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**Changes to legislation:** There are currently no known outstanding effects for the Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005, Section 9. (See end of Document for details)

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- (5) A person guilty of an offence under this section in respect of a person aged under 16 is liable—
- (a) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum or both;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding 14 years<sup>F2</sup> or a fine or both].

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#### Textual Amendments

- F1** Words in s. 9(4)(b) inserted (13.12.2010) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), **ss. 40(2)(a)**, 206(1); S.S.I. 2010/413, art. 2, Sch. (with art. 4)
- F2** Words in s. 9(5)(b) inserted (13.12.2010) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), **ss. 40(2)(a)**, 206(1); S.S.I. 2010/413, art. 2, Sch. (with art. 4)
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#### Commencement Information

- I1** S. 9 in force at 7.10.2005 by [S.S.I. 2005/480](#), **art. 2**

**Changes to legislation:**

There are currently no known outstanding effects for the Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005, Section 9.