

SEXUAL OFFENCES (SCOTLAND) ACT 2009

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part One – Rape Etc

Section 7 – Communicating indecently etc.

23. This section creates two offences, each relating to unwanted sexual communication. Both subsections (1) and (2) provide that the offences are committed only where the victim did not consent to the activity and the perpetrator had no reasonable belief that the victim consented. For an offence to be committed, the accused must intend to communicate with the victim.
24. Subsection (1) creates the offence of “communicating indecently”. It is committed if a person, in the circumstances set out in paragraph 23 above, intentionally sends the victim a sexual written communication by whatever means, or directs a sexual verbal communication at the victim, by whatever means.
25. Subsection (2) creates the offence of “causing a person to see or hear an indecent communication”. It is committed if, in circumstances other than specified in subsection (1), a person causes the victim to see a sexual written communication or to hear a sexual verbal communication, in each case by whatever means and in the circumstances described in paragraph 23 above.
26. Subsection (3) provides that an offence under subsection (1) or (2) is committed only where the perpetrator’s purpose is to obtain sexual gratification, or to humiliate, distress or alarm the victim.
27. Subsection (4) defines “written communication” and “verbal communication” for the purpose of this section.