

SEXUAL OFFENCES (SCOTLAND) ACT 2009

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part One – Rape Etc

Section 9 – Voyeurism

30. **Section 9** creates the offence of “voyeurism”. It is committed if a person does any of the things mentioned in subsections (2) to (5).
31. Subsection (2) provides that a person commits an offence if that person observes the victim 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 the victim engaging in a private act. Subsection (4) provides that a person commits an offence if that person records the victim engaging in a private act with the intention that he or another person will look at an image of the victim 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). In all cases, the offences are committed where the victim does not consent and the accused has no reasonable belief that the victim consented.
32. 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 victim.