

*These notes relate to the Sexual Offences (Scotland) Act
2009 (asp 9) which received Royal Assent on 14 July 2009*

SEXUAL OFFENCES (SCOTLAND) ACT 2009

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 7 – Miscellaneous and General

Section 49 – Establishment of purpose for the purposes of sections 5 to 9, 22 to 26 and 32 to 36

150. **Section 49** makes provision with regard to the “purpose test” used in the offences at sections 5 to 9, 22 to 26 and 32 to 36. Subsection (1) provides that where it is required to prove that the accused acted for the purpose of obtaining sexual gratification, or of humiliating, alarming or distressing the victim, this requirement is satisfied if, in all the circumstances, it may reasonably be inferred that the accused acted for such a purpose. Subsection (2) provides that it is irrelevant whether or not the victim was in fact humiliated, alarmed or distressed by the accused’s act.