Sexual Offences (Scotland) Bill

1st Groupings of Amendments for Stage 2

This document provides procedural information which will assist in preparing for and following proceedings on the above Bill. The information provided is as follows:

- the list of groupings (that is, the order in which amendments will be debated). Any procedural points relevant to each group are noted;
- the text of amendments to be debated on the first day of Stage 2 consideration, set out in the order in which they will be debated. THIS LIST DOES NOT REPLACE THE MARSHALLED LIST, WHICH SETS OUT THE AMENDMENTS IN THE ORDER IN WHICH THEY WILL BE DISPOSED OF.

Groupings of amendments

Surgically constructed genitals
1, 2, 3

Sexual assault: penetration
4

Sexual assault: emission of saliva
5

Definition of sexual
6, 7, 8, 12, 13, 19, 24, 28, 29, 30, 34, 35, 36, 37, 38, 42, 43, 44, 45, 46, 47, 48, 75

Coercing a person into looking at a sexual image
9, 10, 11, 31, 32, 33, 39, 40, 41, 53, 57, 58, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74

Sexual exposure, voyeurism and purpose required for offence to be committed
14, 15, 16, 17, 18, 20, 21, 22, 25, 26, 27, 54

Administering a substance for sexual purposes
23

Penalty on indictment for rape, sexual assault by penetration, sexual assault, rape of a young child or sexual assault on a young child
49, 50, 51, 52, 55, 56

Establishment of purpose: sexual gratification, causing humiliation or distress
59
Amendments in debating order

Surgically constructed genitals

Fergus Ewing

1 In section 1, page 1, line 19, leave out <an artificial> and insert <a surgically constructed>

Fergus Ewing

2 In section 1, page 1, line 23, leave out <an artificial> and insert <a surgically constructed>

Fergus Ewing

3 In section 1, page 1, line 23, leave out second <artificial> and insert <surgically constructed>

Sexual assault: penetration

Fergus Ewing

4 After section 1, insert—

Sexual assault by penetration

(1) If a person (“A”), with any part of A’s body or anything else—
   (a) without another person (“B”) consenting, and
   (b) without any reasonable belief that B consents,
   penetrates sexually to any extent, either intending to do so or reckless as to whether
   there is penetration, the vagina or anus of B then A commits an offence, to be known as
   the offence of sexual assault by penetration.

(2) For the purposes of this section, penetration is a continuing act from entry to withdrawal
    of whatever is intruded; but this subsection is subject to subsection (3).

(3) In a case where penetration is initially consented to but at some point of time the consent
    is withdrawn, subsection (2) is to be construed as if the reference in it to a continuing act
    from entry were a reference to a continuing act from that point of time.

(4) Without prejudice to the generality of subsection (1), the reference in that subsection to
    penetration with any part of A’s body is to be construed as including a reference to
    penetration with A’s penis.

Sexual assault: emission of saliva

Fergus Ewing

5 In section 2, page 2, line 15, at end insert—

( ) intentionally or recklessly emits urine or saliva onto B sexually>
Definition of sexual

Fergus Ewing

6 In section 2, page 2, line 16, leave out subsection (3)

Fergus Ewing

7 In section 3, page 2, line 37, leave out subsection (2)

Fergus Ewing

8 In section 4, page 3, line 13, leave out subsection (3)

Fergus Ewing

12 In section 5, page 3, line 34, leave out subsection (3)

Fergus Ewing

13 In section 6, page 4, line 26, leave out subsection (5)

Fergus Ewing

19 In section 7, page 4, line 34, leave out subsection (2)

Fergus Ewing

24 In section 8, page 5, leave out lines 12 and 13

Fergus Ewing

28 In section 15, page 7, line 21, leave out subsection (3)

Fergus Ewing

29 In section 16, page 7, line 34, leave out subsection (2)

Fergus Ewing

30 In section 17, page 8, line 13, leave out subsection (3)

Fergus Ewing

34 In section 18, page 8, line 31, leave out subsection (3)

Fergus Ewing

35 In section 19, page 9, line 20, leave out subsection (5)

Fergus Ewing

36 In section 22, page 10, line 12, leave out subsection (3)

Fergus Ewing

37 In section 23, page 10, line 29, leave out subsection (2)

Fergus Ewing

38 In section 24, page 11, line 8, leave out subsection (3)
Fergus Ewing

42 In section 25, page 11, line 30, leave out subsection (3)

Fergus Ewing

43 In section 26, page 12, line 22, leave out subsection (5)

Fergus Ewing

44 In section 28, page 13, line 9, leave out subsection (2)

Fergus Ewing

45 In section 31, page 16, line 10, leave out subsection (2)

Fergus Ewing

46 In section 34, page 17, line 35, leave out subsection (4)

Fergus Ewing

47 In section 35, page 18, line 16, leave out subsection (3)

Fergus Ewing

48 In section 36, page 19, line 8, leave out subsection (3)

Fergus Ewing

75 In section 47, page 25, line 10, at end insert—

<(  ) For the purposes of this Act—

   (a) penetration, touching, or any other activity,
   (b) a communication,
   (c) a manner of exposure, or
   (d) a relationship,

   is sexual if a reasonable person would, in all the circumstances of the case, consider it to
   be sexual.>

Coercing a person into looking at a sexual image

Fergus Ewing

9 In section 5, page 3, line 27, leave out from <an> to second <engaging> in line 28 and insert <a
sexual image>

Fergus Ewing

10 In section 5, page 3, line 30, leave out <an image of a sexual activity> and insert <a sexual
image>

Fergus Ewing

11 In section 5, page 3, line 33, at end insert—
For the purposes of subsection (1), a sexual image is an image (produced by whatever means and whether or not a moving image) of—

(a) A engaging in a sexual activity or of a third person or imaginary person so engaging,

(b) A’s genitals or the genitals of a third person or imaginary person.

Fergus Ewing

31  In section 18, page 8, line 24, leave out from <an> to <engaging> in line 26 and insert <a sexual image>

Fergus Ewing

32  In section 18, page 8, line 27, leave out <an image of a sexual activity> and insert <a sexual image>

Fergus Ewing

33  In section 18, page 8, line 30, at end insert—

<(  ) For the purposes of subsection (1), a sexual image is an image (produced by whatever means and whether or not a moving image) of—

(a) A engaging in a sexual activity or of a third person or imaginary person so engaging,

(b) A’s genitals or the genitals of a third person or imaginary person.>

Fergus Ewing

39  In section 25, page 11, line 23, leave out from <an> to second <engaging> in line 24 and insert <a sexual image>

Fergus Ewing

40  In section 25, page 11, line 26, leave out <an image of a sexual activity> and insert <a sexual image>

Fergus Ewing

41  In section 25, page 11, line 29, at end insert—

<(  ) For the purposes of subsection (1), a sexual image is an image (produced by whatever means and whether or not a moving image) of—

(a) A engaging in a sexual activity or of a third person or imaginary person so engaging,

(b) A’s genitals or the genitals of a third person or imaginary person.>

Fergus Ewing

53  In schedule 1, page 26, line 22, column 1, leave out <an image of a sexual activity> and insert <a sexual image>

Fergus Ewing

57  In schedule 1, page 27, line 19, column 1, leave out <an image of a sexual activity> and insert <a sexual image>
THIS IS NOT THE MARSHALLED LIST

Fergus Ewing
58 In schedule 1, page 28, line 9, column 1, leave out <an image of a sexual activity> and insert <a sexual image>

Fergus Ewing
60 In schedule 2, page 29, line 13, column 3, leave out <an image of a sexual activity> and insert <a sexual image>

Fergus Ewing
61 In schedule 2, page 29, line 20, column 3, leave out <an image of a sexual activity> and insert <a sexual image>

Fergus Ewing
62 In schedule 2, page 30, line 6, column 1, leave out <an image of a sexual activity> and insert <a sexual image>

Fergus Ewing
63 In schedule 2, page 30, line 15, column 3, leave out <an image of a sexual activity> and insert <a sexual image>

Fergus Ewing
64 In schedule 2, page 30, line 22, column 3, leave out <an image of a sexual activity> and insert <a sexual image>

Fergus Ewing
65 In schedule 2, page 31, line 6, column 3, leave out <an image of a sexual activity> and insert <a sexual image>

Fergus Ewing
66 In schedule 2, page 31, line 14, column 3, leave out <an image of a sexual activity> and insert <a sexual image>

Fergus Ewing
67 In schedule 2, page 31, line 20, column 1, leave out <an image of a sexual activity> and insert <a sexual image>

Fergus Ewing
68 In schedule 2, page 31, line 29, column 3, leave out <an image of a sexual activity> and insert <a sexual image>

Fergus Ewing
69 In schedule 2, page 31, line 36, column 3, leave out <an image of a sexual activity> and insert <a sexual image>

Fergus Ewing
70 In schedule 2, page 32, line 9, column 3, leave out <an image of a sexual activity> and insert <a sexual image>
THIS IS NOT THE MARSHALLED LIST

Fergus Ewing

71 In schedule 2, page 32, line 16, column 3, leave out <an image of a sexual activity> and insert <a sexual image>

Fergus Ewing

72 In schedule 2, page 32, line 23, column 1, leave out <an image of a sexual activity> and insert <a sexual image>

Fergus Ewing

73 In schedule 2, page 32, line 31, column 3, leave out <an image of a sexual activity> and insert <a sexual image>

Fergus Ewing

74 In schedule 2, page 33, line 8, column 3, leave out <an image of a sexual activity> and insert <a sexual image>

Sexual exposure, voyeurism and purpose required for offence to be committed

Fergus Ewing

14 In section 7, page 4, line 29, after <(“A”)> insert—

<( ) without another person (“B”) consenting, and

( ) without any reasonable belief that B consents,>

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15 In section 7, page 4, line 29, after <intentionally> insert <and for a purpose mentioned in subsection (1A),>

Fergus Ewing

16 In section 7, page 4, line 29, leave out <another person (“B”)> and insert <B>

Fergus Ewing

17 In section 7, page 4, line 30, leave out from <and> to end of line 32

Fergus Ewing

18 In section 7, page 4, line 33, at end insert—

<(1A) The purposes are—

(a) obtaining sexual gratification,

(b) humiliating, distressing or alarming B.>

Fergus Ewing

20 In section 7, page 4, line 37, leave out subsections (3) and (4)
After section 7, insert—

\(<\text{Voyeurism}\)

\textbf{Voyeurism}

(1) A person (“A”) commits an offence, to be known as the offence of voyeurism, if A does any of the things mentioned in subsections (2) to (5).

(2) The first thing is that A—
   
   (a) without another person (“B”) consenting, and
   
   (b) without any reasonable belief that B consents,

   for a purpose mentioned in subsection (6) observes B doing a private act.

(3) The second thing is that A—

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

   operates equipment with the intention of enabling A or another person (“C”), for a purpose mentioned in subsection (7), to observe B doing a private act.

(4) The third thing is that A—

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

   records B doing a private act with the intention that A or another person (“C”), for a purpose mentioned in subsection (7), will look at an image of B doing the act.

(5) The fourth thing is that A—

   (a) installs equipment, or
   
   (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) or (4).

(6) The purposes referred to in subsection (2) are—

   (a) obtaining sexual gratification,
   
   (b) humiliating, distressing or alarming B.

(7) The purposes referred to in subsections (3) and (4) are—

   (a) obtaining sexual gratification (whether for A or C),
   
   (b) humiliating, distressing or alarming B.

\textbf{Fergus Ewing}

22 After section 7, insert—

\(<\text{Interpretation of section (Voyeurism)}\)

(1) For the purposes of section (Voyeurism), a person is doing a private act if the person is in a place which in the circumstances would reasonably be expected to provide privacy, and—

   (a) the person’s genitals, buttocks or breasts are exposed or covered only with underwear,
(b) the person is using a lavatory, or
(c) the person is doing a sexual act that is not of a kind ordinarily done in public.

(2) For the purposes of section (Voyeurism)(3), operating equipment includes enabling or securing its activation by another person without that person’s knowledge.

(3) In section (Voyeurism)(5), “structure” includes a tent, vehicle or vessel or other temporary or movable structure.

Fergus Ewing
25 In section 13, page 6, line 27, leave out <6> and insert <(Voyeurism)>.

Fergus Ewing
26 In section 10, page 6, line 9, leave out <6> and insert <(Voyeurism)>.

Fergus Ewing
27 In section 11, page 6, line 11, leave out <6> and insert <(Voyeurism)>.

Fergus Ewing
54 In schedule 1, page 26, line 36, at end insert—
<Voyeurism  Section (Voyeurism)  Imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum (or both)>
Imprisonment for a term not exceeding 5 years or a fine (or both).

Administering a substance for sexual purposes

Fergus Ewing
23 In section 8, page 5, line 8, leave out <A> and insert <any person>.