

Intimate images and the Law

Abusive Behaviour and Sexual Harm (Scotland) Act 2016

<http://www.legislation.gov.uk/asp/2016/22/contents/enacted>

The law against the disclosure, or threat of disclosure, of an intimate photograph or film is set out in the Abusive Behaviour and Sexual Harm (Scotland) Act 2016.

<http://www.legislation.gov.uk/asp/2016/22/part/1/crossheading/disclosure-of-an-intimate-photograph-or-film/enacted>

For the purposes of section 2 [of the Act], a person is in an intimate situation if;

(a) the person is engaging or participating in, or present during, an act which—

(i) a reasonable person would consider to be a sexual act, and (ii) is not of a kind ordinarily done in public, or

(b) the person's genitals, buttocks or breasts are exposed or covered only with underwear. <http://www.legislation.gov.uk/asp/2016/22/section/2/enacted>

Sexual Offences (Scotland) Act 2009

<https://www.legislation.gov.uk/asp/2009/9/contents>

The Sexual Offences Act sets out in law that it is an offence to force a person to look at a sexual image, or sexual written or verbal communication without their consent, where this is done for the purpose of obtaining sexual gratification, or for the purpose of causing humiliation, alarm or distress to the person at whom it is directed. <https://www.legislation.gov.uk/asp/2009/9/section/7>

Section 9 of the Act makes 'upskirting' an offence (upskirting is the act of taking a photograph of underneath a person's skirt without their consent, typically with the intention of viewing their genitals or buttocks).

<https://www.legislation.gov.uk/asp/2009/9/section/9>

Civic Government (Scotland) Act 1982

<http://www.legislation.gov.uk/ukpga/1982/45/contents>

It is against the law for anyone to take, have or share an 'indecent' image of anyone aged under 18. This means taking, sending and sharing indecent images is illegal under the age of 18.

<http://www.legislation.gov.uk/ukpga/1982/45/section/52>

There is an exception to this offence where;

- the young person depicted in the image is at least 16
- the two parties were partners in an established relationship and;
- the young person consented to the image being taken/made/in the other's possession and;
- any sharing was only with each other.

As such, it is not a crime for an 18 year old man to have a nude photo of his 17 year old girlfriend which was taken with her consent, or for them to swap such images with each other. However, it would be an offence to share such an image.

<http://www.legislation.gov.uk/asp/2005/9/section/16>