



# Civic Government (Scotland) Act 1982

## 1982 CHAPTER 45

### PART IV

#### OFFENCES, POWERS OF CONSTABLES, ETC.

##### *Offences of annoying, offensive, obstructive or dangerous behaviour*

#### **51 Obscene material**

- (1) Subject to subsection (4) below, any person who displays any obscene material in any public place or in any other place where it can be seen by the public shall be guilty of an offence under this section.
- (2) Subject to subsection (4) below, any person who publishes, sells or distributes or, with a view to its eventual sale or distribution, makes, prints, has or keeps any obscene material shall be guilty of an offence under this section.
- (3) A person guilty of an offence under this section shall be liable, on summary conviction, to a fine not exceeding the prescribed sum or to imprisonment for a period not exceeding 3 months or to both or, on conviction on indictment, to a fine or to imprisonment for a period not exceeding two years or to both.
- (4) A person shall not be convicted of an offence under this section if he proves that he had used all due diligence to avoid committing the offence.
- (5) Under an indictment for or on a complaint of a breach of subsection (1) above, the court may, if satisfied that the person accused is guilty of an offence under section 1(1) of the Indecent Displays (Control) Act 1981 (offence of public display of indecent matter), convict him of a breach of the said section 1(1).
- (6) Nothing in this section applies in relation to any matter—
  - (a) included in a television or sound broadcast by the British Broadcasting Corporation or the Independent Broadcasting Authority or a programme transmitted to the premises of subscribers to a diffusion service licensed by the Secretary of State ; or

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*Status: This is the original version (as it was originally enacted).*

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- (b) included in a performance of a play (within the meaning of the Theatres Act 1968).
- (7) For section 5(4)(b) of the Indecent Displays (Control) Act 1981 (saving) there shall be substituted the following—
- “(b) section 51 of the Civic Government (Scotland) Act 1982”.
- (8) In this section—
- " material " includes any book, magazine, bill, paper, print, film, tape, disc or other kind of recording (whether of sound or visual images or both), photograph, drawing, painting, representation, model or figure ;
  - " photograph " includes the negative as well as the positive version;
  - "public place" has the same meaning as in section 133 of this Act except that it includes any place to which at the material time the public are permitted to have access, whether on payment or otherwise ;
  - " prescribed sum " has the same meaning as in section 289B of the Criminal Procedure (Scotland) Act 1975;
- and the reference to publishing includes a reference to playing, projecting or otherwise reproducing.