

The law regarding sex work outdoors (street prostitution) in Scotland is governed by the Civic Government (Scotland) Act 1982 and the Prostitution (Public Places) (Scotland) Act 2007. As with any form of sex work, selling sexual services for money is not illegal, but "associated activities" - soliciting, kerb-crawling, brothel keeping - are.

Civic Government (Scotland) Act 1982

Section 46(1) states that anyone, male or female, who loiters, solicits or importunes in a public place for the purposes of prostitution shall be guilty of an offence and liable to be fined up to £500. What this means is that working on the street is not a criminal offence, although failure to pay fines can be.

Loitering, soliciting and importuning are not defined in the Act, but are usually interpreted to mean staying in an area, making provocative gestures or striking poses and asking passers-by if they are 'looking for business'. In the past this has led many street sex workers to 'walk the beat' and wait until they are approached by a punter.

A public place means any place to which the public have access, whether they have to pay or not, and any form of public transport other than taxis or hire cars. Soliciting (but not importuning or loitering) is also an offence if it takes place where it can be seen from a public place.

Soliciting and importuning are not illegal if they take place entirely in a private setting to which the public do not have access or a view into, such as a locked hotel room or a private residence.

Prostitution (Public Places) (Scotland) Act 2007

This Act makes it illegal for anyone, male or female, to loiter or solicit in a 'relevant place' for the purposes of "obtaining the services of a person engaged in prostitution". Conviction of an offence under this act is punishable by a fine of up to £1000. 'Relevant place' has the same meaning as in the Act above - a place where the public have access, whether or not they need to pay for admission, or to which the public has a view.

Essentially what this means is that it is illegal to approach someone looking for sex for money, whether or not the client is in a car, public transport or on foot and whether or not the person they approach is in fact a sex worker.

It is illegal to 'loiter' in a public place whether in a vehicle or on foot, if "in all the circumstances it may reasonably be inferred" that the person was doing so "for the purpose of obtaining the services of a person engaged in prostitution".

Failed Bills

A Prostitution Tolerance Zone Bill was introduced to the Scottish Parliament in 2003 by Margo MacDonald MSP, to allow local authorities to establish zones in which the police could essentially "turn a blind eye" to soliciting offences while still offering protection to women working in the area. The Bill was defeated.

In 2010 Trish Godman and Marlyn Glen attempted, separately, to introduce proposals to criminalise men who buy sex from women, but were rejected on the grounds that it was too major a reform to rush into without proper consultation. It is expected that similar measures will be proposed again within the next year or two.