



# Mental Health (Scotland) Act 1984

## 1984 CHAPTER 36

### PART XI

#### MISCELLANEOUS AND GENERAL

##### *Offences*

#### **106 Protection of mentally handicapped females**

- (1) It shall be an offence, subject to the exception mentioned in this section,—
  - (a) for a man to have unlawful sexual intercourse with a woman who is protected by the provisions of this section;
  - (b) for any person to procure or encourage any woman who is protected by the provisions of this section to have unlawful sexual intercourse;
  - (c) for the owner or occupier of any premises or any person having or assisting in the management or control of premises to induce any woman who is protected by the provisions of this section to resort to or be upon such premises for the purpose of unlawful sexual intercourse with any man.
- (2) A person shall not be guilty of an offence against this section if he did not know and had no reason to suspect that the woman in respect of whom he is charged was protected by the provisions of this section.
- (3) Any person guilty of an offence under this section shall be liable on conviction on indictment to imprisonment for a term not exceeding 2 years or to a fine.
- (4) Section 18 of the Sexual Offences (Scotland) Act 1976 (which relates to warrants to search where there is reasonable cause to suspect that a woman or girl is being unlawfully detained for immoral purposes) shall apply in the case of a woman who is protected by the provisions of this section in the same manner as that section applies in the case of a girl who is under the age of 16 years.
- (5) If on the trial of an indictment for rape the jury are satisfied that the accused is guilty of an offence against paragraph (a) of subsection (1) of this section, but are not satisfied

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*Status: This is the original version (as it was originally enacted).*

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that he is guilty of rape, the jury may acquit him of rape and find him guilty of such offence as aforesaid, and in that event he shall be liable to be punished as if he had been convicted on an indictment for such offence as aforesaid.

- (6) A woman is protected by the provisions of this section if she is suffering from a state of arrested or incomplete development of mind which includes significant impairment of intelligence and social functioning.
- (7) In this section " woman " includes girl.