



# Mental Health (Scotland) Act 1984

## 1984 CHAPTER 36

### PART XI

#### MISCELLANEOUS AND GENERAL

##### *Offences*

#### **107 Protection of patients**

- (1) Without prejudice to the last foregoing section, it shall be an offence, subject to the exception mentioned in this section,—
  - (a) for a man who is an officer on the staff or is otherwise employed in a hospital or nursing home, or who is a manager of a hospital or who is a person carrying on a nursing home to have unlawful sexual intercourse with a woman who is for the time being receiving treatment for mental disorder as an in-patient in that hospital or nursing home, or to have such intercourse on the premises of which the hospital or nursing home forms part with a woman who is for the time being receiving such treatment there as an out-patient;
  - (b) for a man to have unlawful sexual intercourse with a woman suffering from mental disorder who is subject to his guardianship under this Act or is otherwise in his custody or care under this Act or in the care of a local authority under the Social Work (Scotland) Act 1968 or resident in a house provided by a local authority under that Act.
- (2) It shall not be an offence under this section for a man to have sexual intercourse with a woman if he does not know and has no reason to suspect her to be a person suffering from mental disorder.
- (3) In this section any reference to having unlawful sexual intercourse with a woman shall include a reference to committing a homosexual act as defined in section 80(6) of the Criminal Justice (Scotland) Act 1980.
- (4) 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.