



Criminal Law (Consolidation) (Scotland) Act 1995

1995 CHAPTER 39

PART I

SEXUAL OFFENCES

Incest and related offences

1 Incest.

- (1) Any male person who has sexual intercourse with a person related to him in a degree specified in column 1 of the Table set out at the end of this subsection, or any female person who has sexual intercourse with a person related to her in a degree specified in column 2 of that Table, shall be guilty of incest, unless the accused proves that he or she—
- did not know and had no reason to suspect that the person with whom he or she had sexual intercourse was related in a degree so specified; or
 - did not consent to have sexual intercourse, or to have sexual intercourse with that person; or
 - was married to that person, at the time when the sexual intercourse took place, by a marriage entered into outside Scotland and recognised as valid by Scots law.

Table

DEGREES OF RELATIONSHIP

Column 1

Column 2

1. Relationships by consanguinity

Mother

Father

Changes to legislation: Criminal Law (Consolidation) (Scotland) Act 1995, Section 1 is up to date with all changes known to be in force on or before 26 March 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Daughter	Son
Grandmother	Grandfather
Grand-daughter	Grandson
Sister	Brother
Aunt	Uncle
Niece	Nephew
Great grandmother	Great grandfather
Great grand-daughter	Great grandson

2. Relationships by adoption

Adoptive mother or former adoptive mother.	Adoptive father or former adoptive father.
Adopted daughter or former adopted daughter.	Adopted son or former adopted son.

[^{F1}3. Relationships by virtue of Part 2 of the Human Fertilisation and Embryology Act 2008

Mother	Father
Daughter	Son
Second female parent by virtue of section 42 or 43 of that Act]	

- (2) For the purpose of this section, a degree of relationship exists in the case of a degree specified in paragraph 1 of the Table—
- whether it is of the full blood or the half blood; and
 - even where traced through or to any person whose parents are not or have not been married to one another.
- (3) For the avoidance of doubt sexual intercourse between persons who are not related to each other in a degree referred to in subsection (1) above is not incest.

Textual Amendments

- F1** S. 1(1) Table: para. 3 inserted (6.4.2009 for specified purposes and otherwise 1.9.2009) by Human Fertilisation and Embryology Act 2008 (c. 22), ss. 56, 68(2), **Sch. 6 para. 55**; S.I. 2009/479, **art. 6(1)(e)(2)** (as amended by S.I. 2009/2232, **art. 3**)

Changes to legislation:

Criminal Law (Consolidation) (Scotland) Act 1995, Section 1 is up to date with all changes known to be in force on or before 26 March 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 30(8) added by [2010 asp 13 s. 200\(2\)\(a\)](#)
- s. 45(6) added by [2010 asp 13 s. 200\(2\)\(c\)](#)
- s. 46(5) added by [2010 asp 13 s. 200\(2\)\(d\)\(ii\)](#)