



# Sexual Offences (Scotland) Act 2009

## 2009 asp 9

### PART 1

#### RAPE ETC.

##### *Sexual assault by penetration*

#### **2 Sexual assault by penetration**

- (1) If a person (“A”), with any part of A’s body or anything else—
  - (a) without another person (“B”) consenting, and
  - (b) without any reasonable belief that B consents,penetrates sexually to any extent, either intending to do so or reckless as to whether there is penetration, the vagina or anus of B then A commits an offence, to be known as the offence of sexual assault by penetration.
- (2) For the purposes of this section, penetration is a continuing act from entry to withdrawal of whatever is intruded; but this subsection is subject to subsection (3).
- (3) In a case where penetration is initially consented to but at some point of time the consent is withdrawn, subsection (2) is to be construed as if the reference in it to a continuing act from entry were a reference to a continuing act from that point of time.
- (4) Without prejudice to the generality of subsection (1), the reference in that subsection to penetration with any part of A’s body is to be construed as including a reference to penetration with A’s penis.