



# Sexual Offences (Scotland) Act 2009

## 2009 asp 9

### PART 2

#### CONSENT AND REASONABLE BELIEF

##### *Consent*

### **13 Circumstances in which conduct takes place without free agreement**

- (1) For the purposes of section 12, but without prejudice to the generality of that section, free agreement to conduct is absent in the circumstances set out in subsection (2).
- (2) Those circumstances are—
  - (a) where the conduct occurs at a time when B is incapable because of the effect of alcohol or any other substance of consenting to it,
  - (b) where B agrees or submits to the conduct because of violence used against B or any other person, or because of threats of violence made against B or any other person,
  - (c) where B agrees or submits to the conduct because B is unlawfully detained by A,
  - (d) where B agrees or submits to the conduct because B is mistaken, as a result of deception by A, as to the nature or purpose of the conduct,
  - (e) where B agrees or submits to the conduct because A induces B to agree or submit to the conduct by impersonating a person known personally to B, or
  - (f) where the only expression or indication of agreement to the conduct is from a person other than B.
- (3) References in this section to A and to B are to be construed in accordance with sections 1 to 9.