

SEXUAL OFFENCES (SCOTLAND) ACT 2009

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2 – Consent and Reasonable Belief

Section 16 – Reasonable belief

49. This section makes further provision in respect of determining, for the purposes of Part 1 of the Bill, whether a person's belief as to consent or knowledge, in relation to the sexual activity that has taken place, was reasonable.
50. It will be for a court or the jury to determine in each particular case what amounts to reasonable belief but this section provides that, in determining whether such belief is reasonable, regard is to be had to whether the accused took any steps to ascertain whether there was consent, or, as the case may be, knowledge, and if so, to what those steps were.