



# Criminal Law (Consolidation) (Scotland) Act 1995

## 1995 CHAPTER 39

### PART I

#### SEXUAL OFFENCES

##### *Offences against children*

#### **5 Intercourse with girl under 16**

- (1) Any person who has unlawful sexual intercourse with any girl under the age of 13 years shall be liable on conviction on indictment to imprisonment for life.
- (2) Any person who attempts to have unlawful sexual intercourse with any girl under the age of 13 years shall be liable on conviction on indictment to imprisonment for a term not exceeding two years or on summary conviction to imprisonment for a term not exceeding three months.
- (3) Without prejudice to sections 1 to 4 of this Act, any person who has, or attempts to have, unlawful sexual intercourse with any girl of or over the age of 13 years and under the age of 16 years shall be liable on conviction on indictment to imprisonment for a term not exceeding two years or on summary conviction to imprisonment for a term not exceeding three months.
- (4) No prosecution shall be commenced for an offence under subsection (3) above more than one year after the commission of the offence.
- (5) It shall be a defence to a charge under subsection (3) above that the person so charged—
  - (a) had reasonable cause to believe that the girl was his wife; or
  - (b) being a man under the age of 24 years who had not previously been charged with a like offence, had reasonable cause to believe that the girl was of or over the age of 16 years.

- (6) In subsection (5) above, “a like offence” means an offence under—
- (a) subsection (3) above; or
  - (b) section 4(1) or 10(1) of the Sexual Offences (Scotland) Act 1976 or section 5 or 6 of the Criminal Law Amendment Act 1885 (the enactments formerly creating the offences mentioned in subsection (3) above and section 10(1) of this Act); or
  - (c) section 6 of the Sexual Offences Act 1956 (the provision for England and Wales corresponding to subsection (3) above), or with an attempt to commit such an offence; or
  - (d) section 9(1) of this Act.
- (7) For the purposes of subsection (4) above, a prosecution shall be deemed to commence on the date on which a warrant to apprehend or to cite the accused is granted, if such warrant is executed without undue delay.

## **6 Indecent behaviour towards girl between 12 and 16**

Any person who uses towards a girl of or over the age of 12 years and under the age of 16 years any lewd, indecent or libidinous practice or behaviour which, if used towards a girl under the age of 12 years, would have constituted an offence at common law shall, whether the girl consented to such practice or behaviour or not, be liable on conviction on indictment to imprisonment for a term not exceeding two years or on summary conviction to imprisonment for a term not exceeding three months.