

*These notes refer to the Sexual Offences Act 2003 (c.42)
which received Royal Assent on 20 November 2003*

SEXUAL OFFENCES ACT 2003

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1: Sexual Offences

Section 2: Assault by penetration

11. **Section 2** covers the situation where a person (A) intentionally penetrates the vagina or anus of another person (B). The offence is committed where the penetration is by a part of A's body (for example, a finger) or anything else, (for example, a bottle); where the penetration is sexual (as defined in section 78), so that it excludes, for example, intimate searches and medical procedures; where B does not consent to the penetration; and where A does not reasonably believe that B consents. What is said in the note to section 1 about whether a belief in consent is reasonable also applies here. This and all subsequent offences in the Bill save the offence at section 5 can be committed by a male or female, against a male or female. *Subsection (3)* provides that sections 75 and 76 apply to this offence. Sections 75 and 76 deal with evidential and conclusive presumptions about consent.