

*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 26: Inciting a child family member to engage in sexual activity

54. **Section 26** makes it an offence for a person (A) intentionally to incite a child family member (defined in section 27) aged under 18 either to touch A or to allow himself to be touched by A, where the touching is sexual. The meaning of touching is at section 79(8). It covers all forms of physical contact including sexual intercourse. The definition of sexual is at section 78. An example of this offence would be where A encourages B to masturbate A or cajoles B into agreeing to have sex with him. The offence is committed whether or not the sexual touching takes place. So where in the above example A has encouraged B to masturbate him, but the masturbation does not take place because another person enters the room, the offence is nevertheless complete. The two additional elements of the offence (and the evidential burdens) described in relation to section 25 apply to this section too (*subsections (1)(d) and (e), (2) and (3)*). Whether or not the child consented to the incitement, or the activity being incited is irrelevant.