

VIOLENT CRIME REDUCTION ACT 2006

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 3: Miscellaneous

Section 55: Continuity of sexual offences law

293. **Section 55** provides that where a person is charged in respect of conduct that is an offence under the Sexual Offences Act 2003 and was an offence under one of the repealed offences listed in *subsection (2)*, and the only thing preventing the person being found guilty is that it cannot be proven beyond reasonable doubt whether the conduct took place before or after the commencement of the Sexual Offences Act 2003, then it shall be conclusively presumed for the purposes of determining the guilt of the defendant that the conduct took place at a time when the offence in respect of that conduct carried the lower penalty in terms of a custodial sentence which could be imposed on conviction of the defendant. If the penalties are the same, then it shall be conclusively presumed that the conduct took place after the commencement of the Sexual Offences Act 2003.
294. *Subsection (5)* extends the provision to inciting, conspiring and attempting to commit the specified offences.
295. *Subsection (6)* provides that section 55 applies to any proceedings, whenever commenced, other than where, before the commencement of section 55, the defendant has been convicted or acquitted of the offence under the Sexual Offences Act 2003 or the repealed offence.