

SEXUAL OFFENCES (SCOTLAND) ACT 2009

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part One – Rape Etc

Section 11 – Administering a substance for sexual purposes

34. This section creates the offence of “administering a substance for a sexual purpose” where a person intentionally gives a victim an intoxicant, or otherwise causes an intoxicant to be taken by the victim without the victim knowing, and without reasonable belief that the victim knows, for the purpose of stupefying or overpowering the victim in order that the perpetrator, or any other person, may engage in a sexual activity with the victim. It is immaterial whether or not any sexual activity actually takes place.
35. Subsection (2) extends the offence to apply to certain situations in which the victim does in fact know that he or she is taking the intoxicating substance. In such a situation, a person will commit an offence if he or she intentionally induces in the victim a reasonable belief that the substance is either substantially weaker than it really is, or is of a substantially smaller quantity than it really is. The fact that the victim knows that he or she is taking an intoxicant is to be disregarded.