

# **SEXUAL OFFENCES (SCOTLAND) ACT 2009**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### **Part 4 – Children**

##### **Older Children**

##### ***Section 37 – Older children engaging in sexual conduct with each other***

102. **Section 37** provides that an older child who participates in certain sexual conduct with another older child commits an offence.
103. Subsections (1), (2) and (3) provide that an older child who intentionally or recklessly penetrates sexually another older child’s vagina, anus or mouth with his penis or intentionally or recklessly touches another older child’s vagina, anus or penis with his or her mouth commits the offence of “engaging while an older child in sexual conduct with or towards another older child”.
104. Subsection (4) provides that an older child who consents to engaging in the sexual conduct at subsection (3) will also be guilty of an offence; that offence being “engaging while an older child in consensual sexual conduct with another older child”.