

SEXUAL OFFENCES (SCOTLAND) ACT 2009

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 4 – Children

Older Children

Section 41 – Special provision as regards age: deeming provisions

120. **Section 41** provides for the “deeming of age” provisions in consequence of section 40. Deeming provision 1 provides that in the circumstances set out in section 40(1), the child is deemed to be a person who has attained the age of 13 years at the relevant time. Deeming provision 2 provides that, in the circumstances set out in section 40(2), the child is deemed to be a person who had attained the age of 13 years at the relevant time. Deeming provision 3 provides that, in the circumstances set out in section 40(3), the accused is deemed to be a child who has not attained the age of 16 years at the relevant time. Deeming provision 4 provides that, in the circumstances set out in section 40(4), the accused is deemed to be a child who has not attained the age of 16 years at the relevant time.