



# Sexual Offences (Scotland) Act 2009

## 2009 asp 9

### PART 1

#### RAPE ETC.

##### *Rape*

### 1 Rape

- (1) If a person (“A”), with A’s penis—
  - (a) without another person (“B”) consenting, and
  - (b) without any reasonable belief that B consents,penetrates to any extent, either intending to do so or reckless as to whether there is penetration, the vagina, anus or mouth of B then A commits an offence, to be known as the offence of rape.
- (2) For the purposes of this section, penetration is a continuing act from entry until withdrawal of the penis; but this subsection is subject to subsection (3).
- (3) In a case where penetration is initially consented to but at some point of time the consent is withdrawn, subsection (2) is to be construed as if the reference in it to a continuing act from entry were a reference to a continuing act from that point of time.
- (4) In this Act—

“penis” includes a surgically constructed penis if it forms part of A, having been created in the course of surgical treatment, and

“vagina” includes—

  - (a) the vulva, and
  - (b) a surgically constructed vagina (together with any surgically constructed vulva), if it forms part of B, having been created in the course of such treatment.