



# Sexual Offences (Scotland) Act 2009

## 2009 asp 9

### PART 4

#### CHILDREN

##### *Older children*

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

- (1) If a child (“A”), being a child mentioned in subsection (2), does any of the things mentioned in subsection (3), “B” being in each case a child mentioned in subsection (2), then A commits an offence, to be known as the offence of engaging while an older child in sexual conduct with or towards another older child.
- (2) The child is a child who—
  - (a) has attained the age of 13 years, but
  - (b) has not attained the age of 16 years.
- (3) The things are that A—
  - (a) penetrates sexually, with A’s penis and to any extent, either intending to do so or reckless as to whether there is penetration, the vagina, anus or mouth of B,
  - (b) intentionally or recklessly touches the vagina, anus or penis of B sexually with A’s mouth.
- (4) In the circumstances specified in subsection (1), if B engages by consent in the conduct in question, then B commits an offence, to be known as the offence of engaging while an older child in consensual sexual conduct with another older child.
- (5) In paragraph (b) of subsection (3), the reference to A’s mouth is to be construed as including a reference to A’s tongue or teeth.