



# Sexual Offences (Scotland) Act 2009

## 2009 asp 9

### PART 5

#### ABUSE OF POSITION OF TRUST

##### *Children*

#### **45 Sexual abuse of trust: defences**

- (1) It is a defence to a charge in proceedings under section 42 that A reasonably believed—
  - (a) that B had attained the age of 18, or
  - (b) that B was not a person in relation to whom A was in a position of trust.
- (2) It is a defence to a charge in proceedings under section 42—
  - (a) that B was A's spouse or civil partner, or
  - (b) that immediately before the position of trust came into being, a sexual relationship existed between A and B.
- (3) Subsection (2) does not apply if A was in a position of trust in relation to B by virtue of section 43(6).