

*These notes refer to the Sexual Offences Act 2003 (c.42)
which received Royal Assent on 20 November 2003*

SEXUAL OFFENCES ACT 2003

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1: Sexual Offences

Section 76: Conclusive presumptions about consent

143. This section creates conclusive presumptions about lack of consent and the absence of belief in consent in situations where the defendant deceived the complainant into sexual activity. *Subsection (2)(a)* covers the situation where, for example, the defendant intentionally tells the complainant that digital penetration of her vagina is necessary for medical reasons when in fact it is for his sexual gratification. *Subsection (2)(b)* covers the situation where, for example, the defendant impersonates the complainant's partner and thereby causes the complainant to consent to the relevant act. Where the prosecution prove that the defendant did a relevant act (as defined in section 77) and that any of the circumstances described in *subsection (2)* existed, it is conclusively presumed that the complainant did not consent to the relevant act and that the defendant did not believe that the complainant consented to the relevant act. The defendant will therefore be convicted.