

SEXUAL OFFENCES (SCOTLAND) ACT 2009

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 4 – Children

Young Children

Section 19 – Sexual assault on a young child by penetration

56. This section creates the offence of “sexual assault on a young child by penetration”. Subsection (1) provides that a person commits this offence by intentionally or recklessly sexually penetrating, with any part of his or her body, or anything else (i.e. an object) the vagina or anus of a young child.
57. Subsection (2) provides that penetration “by any part of A’s body” in subsection (1) includes with the perpetrator’s penis. This means there is an overlap between the conduct which constitutes sexual assault on a young child by penetration, that which constitutes rape of a young child and that which constitutes sexual assault on a young child. This is necessary for the same reasons as specified for the overlap between the offences at sections 1, 2 and 3 of the Bill (see paragraph 12 above).