



# Sexual Offences Act 2003

## 2003 CHAPTER 42

### PART 1

#### SEXUAL OFFENCES

##### *Offences against persons with a mental disorder impeding choice*

#### **30 Sexual activity with a person with a mental disorder impeding choice**

- (1) A person (A) commits an offence if—
- he intentionally touches another person (B),
  - the touching is sexual,
  - B is unable to refuse because of or for a reason related to a mental disorder, and
  - A knows or could reasonably be expected to know that B has a mental disorder and that because of it or for a reason related to it B is likely to be unable to refuse.
- (2) B is unable to refuse if—
- he lacks the capacity to choose whether to agree to the touching (whether because he lacks sufficient understanding of the nature or reasonably foreseeable consequences of what is being done, or for any other reason), or
  - he is unable to communicate such a choice to A.
- (3) A person guilty of an offence under this section, if the touching involved—
- penetration of B's anus or vagina with a part of A's body or anything else,
  - penetration of B's mouth with A's penis,
  - penetration of A's anus or vagina with a part of B's body, or
  - penetration of A's mouth with B's penis,
- is liable, on conviction on indictment, to imprisonment for life.
- (4) Unless subsection (3) applies, a person guilty of an offence under this section is liable—

---

*Status: This is the original version (as it was originally enacted).*

---

- (a) on summary conviction, to imprisonment for a term not exceeding 6 months or to a fine not exceeding the statutory maximum or both;
- (b) on conviction on indictment, to imprisonment for a term not exceeding 14 years.