



Sexual Offences Act 2003

2003 CHAPTER 42

PART 1

SEXUAL OFFENCES

Offences against persons with a mental disorder impeding choice

- 31 Causing or inciting a person, with a mental disorder impeding choice, to engage in sexual activity**
- (1) A person (A) commits an offence if—
- he intentionally causes or incites another person (B) to engage in an activity,
 - the activity 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 engaging in the activity caused or incited (whether because he lacks sufficient understanding of the nature or reasonably foreseeable consequences of the activity, 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 activity caused or incited involved—
- penetration of B's anus or vagina,
 - penetration of B's mouth with a person's penis,
 - penetration of a person's anus or vagina with a part of B's body or by B with anything else, or
 - penetration of a person's mouth with B's penis,

Status: This is the original version (as it was originally enacted).

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—
- (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.