

## **SCOTTISH GOVERNMENT CONSULTATION**

### **THE SCOTTISH LAW COMMISSION REPORT ON RAPE AND OTHER SEXUAL OFFENCES**

#### **CABINET SECRETARY FOR JUSTICE'S FOREWORD**

I welcome the publication of the Scottish Law Commission's Report and draft Bill on rape and other sexual offences. It is the result of detailed consideration not only of matters of legal principle, but of important issues of social policy, which has involved taking account of a wider range of perspectives.

It is clear that there is a need to reform the current law on rape and sexual offences. There has been considerable public, professional and academic concern that the current law on rape is unsatisfactory, unclear, and too narrowly drawn. Equally, many other aspects of the Scots law on sexual offences need modernising and require reform.

It is important that Scotland should have a robust and modern framework of laws in this area, fit for the 21<sup>st</sup> Century. Much of the current legislation derives from a time when attitudes were very different from those of contemporary society and it is no longer fit for purpose.

It is for this reason that the First Minister announced to Parliament on 5 September 2007 that the Scottish Government would introduce a Bill in 2008 to reform the law on rape and sexual offences, in light of the Scottish Law Commission's report.

Our goal is to build a safer and stronger Scotland with a clear legal framework which ensures that rapists and sex offenders are brought to justice and that victims have confidence in the Justice system. It is vital that nobody should be dissuaded from coming forward to report such crimes because they fear that the law is unclear.

It is equally important that we ensure that our laws of evidence are fit for purpose. The Scottish Law Commission reached the conclusion that these should not be considered solely in respect of sexual offences, but should be considered in respect of the criminal law as a whole. The Scottish Law Commission have now accepted a reference to consider: the admissibility of evidence of bad character; of similar fact evidence; and of the Moorov doctrine, and to make recommendations for reform.

We recognise that there are no simple answers in what is a complex and sensitive area of the law. We want to seek the widest possible range of views on the recommendations contained in the Scottish Law Commission's report before seeking to introduce legislation in Parliament. I will ensure that the issues raised in this consultation are given careful consideration before we bring forward legislation. I therefore encourage you to respond to this consultation and let us know your views.

**Kenny MacAskill**

Cabinet Secretary for Justice

December 2007

## INTRODUCTION

1. The Scottish Government seeks the views of consultees on the recommendations contained in the Scottish Law Commission's (SLC) report on Rape and Sexual Offences. The consultation period runs from **19 December 2007 to 14 March 2008**.

2. In addition to seeking your views on the specific recommendations contained in the SLC's report, we would also welcome any general comments you have on either the report or the accompanying draft Bill which the SLC have produced.

3. The SLC published a discussion paper seeking comments on its emerging proposals for reform of the law on rape and sexual offences in January 2006. While the SLC's thinking on a number of specific issues has altered from what was put forward in their discussion paper, we appreciate that many of the recommendations contained in their final report mirror those in their earlier discussion paper. The SLC has not, however, published these responses. **If you or your organisation wish to do so please feel free to submit to us your original response to the SLC, and we will publish it alongside your response to this consultation.**

4. Further copies of this document can be obtained by

- contacting the Sex Offences Bill Team on 0131 244 4210
- or e-mailing [sexoffenceslaw@scotland.gsi.gov.uk](mailto:sexoffenceslaw@scotland.gsi.gov.uk)

5. The Scottish Law Commission's report is available online at <http://www.scotlawcom.gov.uk/html/reports.html#r209>. Their earlier discussion paper is also available at [http://www.scotlawcom.gov.uk/downloads/dp131\\_rape.pdf](http://www.scotlawcom.gov.uk/downloads/dp131_rape.pdf)

6. Please send your response and comments to:

Rape and Sexual Offences Consultation  
Room GW15  
St Andrew's House  
Regent Road  
Edinburgh  
EH1 3DG

Or by email to [sexoffenceslaw@scotland.gsi.gov.uk](mailto:sexoffenceslaw@scotland.gsi.gov.uk)

**Please complete the details on the respondent information form at the end of this document and return it with your response. An electronic version is available as above. This will help ensure we handle your response appropriately. Thank you for your help.**

## BACKGROUND

7. In 2004, the Scottish Law Commission (SLC) were commissioned “To examine the law relating to rape and to other sexual offences and the evidential requirements for proving such offences and to make recommendations for reform.” That commission was made as a result of public, professional and academic concern as a consequence of certain high-profile decisions of the High Court of Justiciary in rape cases, which led to concerns that the common law offence of rape was unsatisfactory and unclear. In addition to this, other aspects of the Scots law on sexual offences had been identified as requiring consideration and reform. The law in this area derives from a time when sexual attitudes were very different from those of contemporary society. It is not gender-neutral, it is inconsistent and some aspects are also less than clear.

8. In September, the First Minister made a commitment in his speech to Parliament on the legislative programme, to bring forward legislation to reform the law on rape and sexual offences, in light of the SLC’s report. The Scottish Government intends to introduce legislation in Parliament next year. However, before doing so, we are keen to seek the views of consultees on the recommendations contained in the SLC’s report. Please note that the recommendations referred to in this consultation are those arrived at by the SLC and do not necessarily represent the views of the Scottish Government or Scottish Ministers.

9. We recognise that the SLC themselves undertook a consultation on their emerging proposals in January 2006. However, there are a number of reasons why we consider this further consultation to be required. Most importantly, a number of the recommendations differ from, or are more developed than, those contained in their discussion paper. We consider it vital therefore that we seek views on the SLC’s proposals from all interested parties prior to introducing legislation next year. This paper therefore highlights those recommendations which represent either a departure from the SLC’s earlier thinking, or a significant development of it.

10. The Scottish Government will consider all responses received by the consultation deadline and take account of them in shaping the final content of the legislation to be brought before Parliament. In considering legislation brought forward by the Scottish Government, the Parliament will also wish to take account of the views of stakeholders on the recommendations for legislative change put forward by the SLC.

11. As well as the **specific** issues highlighted in the SLC’s recommendations, we also seek more general comments on a number of issues, including equal opportunities, human rights, and the financial implications of the proposals. The Scottish Parliament takes particular interest in these issues and we would welcome any comments that you have on these matters.

## RECOMMENDATIONS OF THE SCOTTISH LAW COMMISSION REPORT ON RAPE AND SEXUAL OFFENCES

Please note – Recommendations which differ significantly from those put forward in the discussion document, or which represent one of a number of options put forward in the discussion document, are highlighted in bold type.

Paragraph numbers and draft Bill sections refer to the Scottish Law Commission's report.

### Part 2 - Consent

1. Do you agree with the SLC's recommendation that – "A constituent element of the offences of rape and other sexual assaults and of offences involving coerced sexual activity should be the lack of consent by the victim."?

(Paragraph 2.19; Draft Bill, sections 1(1); 2(1); 3(1); 4(1); 5(1); 6(1), (2))

2. Do you agree with the SLC's recommendation that – "There should be a definition of consent in respect of sexual offences which involve the lack of consent of any person."?

(Paragraph 2.22; Draft Bill, sections 9-11)

3. Do you agree with the SLC's recommendation that –

"( a) For sexual offences in which the lack of consent on the part of the victim is a part of the offence, there should be a statutory definition of consent.

(b) Consent should be defined first by means of a general description of what consent means.

(c) Secondly the statutory definition should also provide a non-exhaustive list of situations where consent does not exist."?

(Paragraph 2.35; Draft Bill, sections 9 and 10)

4. Do you agree with the SLC's recommendation that – "**Consent as a constituent element of sexual assaults be defined in general terms as 'free agreement'.**"?

(Paragraph 2.42; Draft Bill, section 9)

5. Do you agree with the SLC's recommendation that – "There should be a non-exhaustive statutory list of factual situations which define when a person has not consented to sexual activity. The situations should include the following:

- (a) where the person had taken or been given alcohol or other substances and as a result lacked the capacity to consent at the time of expressing or indicating consent unless consent had earlier been given to engaging in the activity in that condition;

- (b) where the person was unconscious or asleep and had not earlier given consent to sexual activity in these circumstances;
- (c) where the person agreed or submitted to the act because he or she was subject to violence, or the threat of violence, against him or her, or against another person;
- (d) where the person agreed or submitted to the act because at the time of the act he or she was unlawfully detained by the accused;
- (e) where the person agreed or submitted to the act because he or she was deceived by the accused about the nature or purpose of the activity;
- (f) where the person agreed to the act because the accused impersonated someone who was known to the person;
- (g) where the only expression of agreement to the act was made by someone other than the person.”?

(Paragraph 2.59; Draft Bill, section 10)

6. Do you agree with the SLC’s recommendation that – “The giving of consent to one sexual act does not by itself constitute consent to a different sexual act.”?

(Paragraph 2.84; Draft Bill, section 11(2))

7. Do you agree with the SLC’s recommendation that – “A person who has consented to a sexual act may at any time before or up until completion of that act indicate that he or she no longer consents, and if the act continues to take place it does so without that person's consent.”?

(Paragraph 2.86; Draft Bill, section 11(3),(4))

8. Do you agree with the SLC’s recommendation that – “The provisions relating to notice of consent as a defence to a charge of a sexual offence in sections 78 and 149A of the Criminal Procedure (Scotland) Act 1995 should be repealed.”?

(Paragraph 2.88; Draft Bill, section 44(2); schedule 4)

### **Part 3 – Sexual Assaults**

9. Do you agree with the SLC’s recommendation that – “Sexual assaults should not be subsumed within the general law of assault but should form a separate category of offence.”?

(Paragraph 3.8; Draft Bill, sections 1-2)

10. Do you agree with the SLC's recommendation that – "Sexual assaults should not be classified as one general type of offence but should be divided into specific types of offence."?

(Paragraph 3.9; Draft Bill, sections 1-2)

11. Do you agree with the SLC's recommendation that – "The actings which constitute the offence of rape should be defined in terms of the penetration by a person with his penis of the vagina, anus or mouth of another person without that person's consent."?

(Paragraph 3.29; Draft Bill, section 1)

12. Do you agree with the SLC's recommendation that –  
**"(a) the common law offences of rape and clandestine injury to women should be abolished.**

**(Paragraph 3.35; Draft Bill, section 40(a))**

- (b) section 7(3) of the Criminal Law (Consolidation) (Scotland) Act 1995 should be repealed."?**

**(Paragraph 3.35; Draft Bill, section 44(2); schedule 4)**

13. Do you agree with the SLC's recommendation that – "There should be an offence to be known as sexual assault."?

(Paragraph 3.40; Draft Bill, section 2)

14. Do you agree with the SLC's recommendation that – **"Sexual assault is constituted by the following conduct:**

**(a) A sexually penetrates the vagina, anus or mouth of B without B's consent;**

**(b) A sexually touches B without B's consent;**

**(c) A has sexual contact with B without B's consent;**

**(d) A ejaculates semen onto B without B's consent."?**

**(Paragraph 3.40; Draft Bill, section 2(1), (2))**

15. Do you agree with the SLC's recommendation that – "For purposes of the law on sexual assault a penetration, touching or contact is sexual if a reasonable person would consider it to be sexual."?

(Paragraph 3.44; Draft Bill, section 2(3))

16. Do you agree with the SLC's recommendation that – **“The common law on assault under circumstances of indecency should remain in effect except in relation to any conduct which constitutes the statutory offence of sexual assault or another offence in the Draft Bill.”?**

**(Paragraph 3.47; Draft Bill, section 40(b))**

17. Do you agree with the SLC's recommendation that – **“It should be an offence for a person to cause another person, without that person's consent, to participate in any sexual activity.”?**

**(Paragraph 3.51; Draft Bill, section 3)**

18. Do you agree with the SLC's recommendation that – **“It should be an offence for a person, acting for the purpose of obtaining sexual gratification or of humiliating, distressing or alarming another person, to cause that person, without his or her consent, to be present during a sexual activity.”?**

**(Paragraph 3.61; Draft Bill, section 4)**

19. Do you agree with the SLC's recommendation that – **“It should be an offence for a person, acting for the purpose of obtaining sexual gratification or of humiliating, distressing or alarming another person, to cause that person, without his or her consent, to look at an image of a sexual activity.”?**

**(Paragraph 3.61; Draft Bill, section 5)**

20. Do you agree with the SLC's recommendation that – **“It should be an offence for a person, acting for the purpose of obtaining sexual gratification or of humiliating, distressing or alarming another person:**

- (a) to make a sexual communication with that person, without his or her consent, or**
- (b) to cause that person, without his or her consent, to see or hear a sexual communication made to someone else.”?**

**(Paragraph 3.63; Draft Bill, section 6)**

21. Do you agree with the SLC's recommendation that – **“It should be an offence for a person to administer a substance to, or cause a substance to be taken by, another person without that person's knowledge where the purpose is to stupefy or overpower that person so as to enable having sexual activity with him or her.”?**

**(Paragraph 3.66; Draft Bill, section 8)**

22. Do you agree with the SLC's recommendation that – **“For any offence which requires that the accused lacked reasonable belief that another person consented, in assessing what was reasonable regard is to be had to the steps, if any, which the accused took to ascertain whether there was consent.”?**  
(Paragraph 3.78; Draft Bill, section 12)

#### **Part 4 – Offences based on a protective principle**

23. Do you agree with the SLC's recommendation that – “The law on sexual offences relating to children should not make any distinction in terms of the gender of the child or of the perpetrator of such offences.”?

(Paragraph 4.17)

24. Do you agree with the SLC's recommendation that – “There should be special provisions in applying the law on rape and other sexual assaults and coerced sexual activity to children who have not reached the age of 13.”?

(Paragraph 4.25; Draft Bill, sections 14-19)

25. Do you agree with the SLC's recommendation that – “The offences involving rape and other sexual assaults and coerced sexual activity which apply to children under the age of 13 are based on the legal premise that children below that age lack capacity to consent to sexual activity.”?

(Paragraph 4.31; Draft Bill, sections 14-19)

26. Do you agree with the SLC's recommendation that – “It is not a defence to an offence involving rape or other sexual assaults and coerced sexual activity which apply to children under the age of 13 that the accused believed that the child was 13 or older.”?

(Paragraph 4.39; Draft Bill, section 20)

27. Do you agree with the SLC's recommendation that – “There should be no defence to offences involving rape or other sexual assaults and coerced sexual activity which apply to children under the age of 13 that the accused was married to, or in a civil partnership with, the child.”?

(Paragraph 4.42; Draft Bill, sections 14-19)

28. Do you agree with the SLC's recommendation that – “There should be special provisions applying the law on sexual penetration and other sexual assaults and on coerced sexual activity to children aged between 13 and 16 where the conduct involves the consent of the child.”?

(Paragraph 4.51; Draft Bill, sections 21-26)

29. Do you agree with the SLC's recommendation that – **“The offences mentioned in recommendation 28 cannot be committed by a person who has not reached the age of 16.”?**

**(Paragraph 4.57; Draft Bill, sections 21(1); 22(1); 23(1); 24(1); 25(1); 26(1), (2))**

30. Do you agree with the SLC's recommendation that – "There should be a ground of referral of a child to a children's hearing that the child has engaged in sexual activity with another person or has been subjected to sexual activity with another person."?

**(Paragraph 4.57; Draft Bill, section 29)**

31. Do you agree with the SLC's recommendation that – "There should be a defence to an offence relating to sexual activity with a child aged between 13 and 16 that the accused believed on reasonable grounds that the child was 16 or older."?

(Paragraph 4.64; Draft Bill, section 27(1)(b))

32. Do you agree with the SLC's recommendation that – "It should not be a defence to an offence relating to sexual activity with a child aged between 13 and 16 that the accused believed that the child was under 13 years of age."?

(Paragraph 4.64; Draft Bill, section 27(4))

33. Do you agree with the SLC's recommendation that – "There should be a defence to an offence relating to sexual activity with a child aged between 13 and 16 that the accused and the child were married or in a civil partnership recognised as valid under Scots law."?

(Paragraph 4.70; Draft Bill, section 27(1)(a))

34. Do you agree with the SLC's recommendation that – **"The accused should bear an evidential, but not a legal, burden of establishing the defences set out in recommendations 31 and 33 and elsewhere in this Report."**?

**(Paragraph 4.74)**

35. Do you agree with the SLC's recommendation that – **"There should be a defence to an offence involving sexual activity with an older child that the accused was less than 2 years older than the child or had at some time earlier engaged in such activity and at that time was less than 2 years older than the child."**?

**(Paragraph 4.78; Draft Bill, section 28)**

36. Do you agree with the SLC's recommendation that – **"But this defence does not apply to an offence involving penile penetration of an older child."**?

**(Paragraph 4.78; Draft Bill, section 27(2), (3))**

37. Do you agree with the SLC's recommendation that – **“Where a charge has been brought of a protective offence against a child, and the Crown can establish that at the time of the offence the child was under the age of 16 but cannot establish the child's actual age, then:**

- (a) **if the charge is of an offence against an older child, the child will be deemed to have been 13 at that time; and**
- (b) **if the charge is of an offence against a young child, the accused will be liable to be convicted of a corresponding offence against an older child.”?**

**(Paragraph 4.82; Draft Bill, section 28)**

38. Do you agree with the SLC's recommendation that – “The crime of lewd, indecent or libidinous practice and behaviour towards children should be abolished.”?

(Paragraph 4.87; Draft Bill, section 40(a))

39. Do you agree with the SLC's recommendation that – “Section 311 of the Mental Health (Care and Treatment) (Scotland) Act 2003 should be repealed.”?

(Paragraph 4.96; Draft Bill, section 44(2); schedule 4)

40. Do you agree with the SLC's recommendation that – **“There should be a definition of the capacity of a person with a mental disorder to consent to sexual activity.”?**

**(Paragraph 4.96; Draft Bill, section 13)**

41. Do you agree with the SLC's recommendation that – “There should be offences which impose criminal liability on a person who has sexual activity with another person over whom he or she holds a position of trust.”?

(Paragraph 4.108; Draft Bill, sections 30-35)

42. Do you agree with the SLC's recommendation that – **“It should be an offence for a person aged 18 or older to engage in sexual activity with another person aged under 18 where:**

- (a) **the parties live in the same household; and**
- (b) **there was a relationship of trust between the parties.”?**

**(Paragraph 4.115; Draft Bill, section 31(1), (6))**

43. Do you agree with the SLC's recommendation that – “There is a relationship of trust between two people who live in the same household where:

- (a) one person has or exercises parental responsibilities and rights in respect of the other person; or
- (b) one person has in the past had or exercised parental responsibilities in respect of the other person; or
- (c) one person is treating the other person as a child of his family.”?

(Paragraph 4.115; Draft Bill, section 31(6))

44. Do you agree with the SLC’s recommendation that – “It should be a defence to a charge of abuse of trust between persons sharing the same household that the accused reasonably believed (i) that the other person was 18 or older or (ii) that he was not in a relationship of trust with that person.”?

(Paragraph 4.120; Draft Bill, section 33(1))

45. Do you agree with the SLC’s recommendation that – **“But it should not be a defence that the accused was married to that person or that the parties were in a sexual relationship prior to the relationship of trust between them.”?**

**(Paragraph 4.120; Draft Bill, section 33(2),(3))**

46. Do you agree with the SLC’s recommendation that – “Section 313 of the Mental Health (Care and Treatment) (Scotland) Act 2003 should be repealed.”?

(Paragraph 4.122; Draft Bill, section 44(2); schedule 4)

47. Do you agree with the SLC’s recommendation that – “It should be an offence for a person to engage in a sexual activity with a mentally disordered person where he or she (a) is providing care services to the mentally disordered person or (b) works in, or is a manager of, a hospital where the mentally disordered person is being given medical treatment.”?

(Paragraph 4.122; Draft Bill, section 34)

48. Do you agree with the SLC’s recommendation that – “It should be a defence to the offence of sexual abuse of a person with a mental disorder that:

- (a) the person providing the care service did not know, on reasonable grounds, that the other person was mentally disordered;
- (b) the person providing the care service did not know, on reasonable grounds, that there was a relationship of trust with the other person;
- (c) the parties were married to, or in a civil partnership with, each other at the time of the sexual activity;

(d) a sexual relationship existed between the parties at the time when the relationship of trust between them was constituted.”?

(Paragraph 4.125; Draft Bill, section 35)

49. Do you agree with the SLC’s recommendation that – “It should be an offence for a person aged 18 or older to engage in sexual activity with another person where:

(a) the person was in a position of trust in relation to that other person; and

(b) that other person was under the age of 18.”?

(Paragraph 4.128; Draft Bill, section 30)

50. Do you agree with the SLC’s recommendation that – “A position of trust should be restricted to the situations set out in section 4 of the Sexual Offences (Amendment) Act 2000 but:

(a) a position of trust can arise in relation to a person receiving part time education; and

(b) one person looks after another person where he or she regularly cares for, trains, supervises or is in sole charge of that other person.”?

(Paragraph 4.132; Draft Bill, section 31)

51. Do you agree with the SLC’s recommendation that – “It should be a defence to an offence of sexual abuse of trust in recommendation 49 that:

(a) the accused reasonably believed that the complainer was 18 or older;

(b) the accused reasonably believed that there was no relationship of trust with the complainer;

(c) that the accused was married to, or in a civil partnership with, the complainer;

(d) that a sexual relationship existed between the accused and the complainer at the time when the relationship of trust between them was constituted.”?

(Paragraph 4.134; Draft Bill, section 33(1),(2),(4))

## **Part 5 – Offences based on public morality**

52. Do you agree with the SLC’s recommendation that –

- “ (1) There should be an exclusion from liability for incitement or art and part involvement in any offence concerning sexual activity with a child or young person for persons providing counselling, support or treatment on matters of sexual health.
- (2) The exclusion from liability does not apply where the person acts with the purpose of:
  - (a) obtaining sexual gratification;
  - (b) humiliating, distressing or alarming the child or young person; or
  - (c) causing or encouraging the commission of an offence.”?

(Paragraph 5.5; Draft Bill, section 39)

53. Do you agree with the SLC’s recommendation that – “Any existing common law offence relating to homosexual conduct should be abolished.”?

(Paragraph 5.10; Draft Bill, section 40(a))

54. Do you agree with the SLC’s recommendation that – “Except for the provisions relating to procuring and related offences, section 13 of the Criminal Law (Consolidation) (Scotland) Act 1995 should be repealed.”?

(Paragraph 5.10; Draft Bill, section 44(2); schedule 4)

55. Do you agree with the SLC’s recommendation that – “It should be an offence for a person to expose his or her genitals in a sexual manner with the intention of causing alarm or distress to someone else or being reckless as to causing these effects.”?

(Paragraph 5.16; Draft Bill, section 7(1), (2))

56. Do you agree with the SLC’s recommendation that – **“It should be a defence to a charge of sexual exposure that the accused's actings were done in the performance of a play and conformed to the directions of the presenter or director of the play.**

(Paragraph 5.27; Draft Bill, section 7(3), (4))

57. Do you agree with the SLC’s recommendation that – **“It should not be the crime of assault for one person to attack another where:**

- (a) both parties are 16 or older;**
- (b) the purpose of the attack is to provide sexual gratification to one or other (or both) of the parties, and the parties agree to that purpose;**
- (c) the person receiving the attack consents to its being carried out; and**

**(d) the attack is unlikely to result in serious injury.”?**

**(Paragraph 5.27; Draft Bill, section 37)**

58. Do you agree with the SLC’s recommendation that – “Consideration should be given to the creation of an offence of unlawful interference remains.”?

(Paragraph 5.28)

**Part 7 – Miscellaneous issues**

59. Do you agree with the SLC’s recommendation that – **“The removal of criminal liability for attacks carried out by persons for the purpose of obtaining sexual gratification should apply in respect of attacks which take place before or after the date on which the relevant provision comes into force but this rule should not affect convictions for assault before that date.”?**

**(Paragraph 7.6; Draft Bill, section 37(3))**

60. Do you agree with the SLC’s recommendation that – “Where the accused is charged with an offence under the Act and with an offence under the law in force prior to the Act, and the actual date on which the accused’s conduct took place cannot be proven, the accused is liable to be convicted of an offence under the Act unless the maximum penalty for the offence under the prior law is less than that for the offence under the Act.”?

(Paragraph 7.10; Draft Bill, section 41)

61. Do you agree with the SLC’s recommendation that – **“The offences of rape and rape of a young child may be tried only in the High Court of Justiciary.”?**

**(Paragraph 7.16; Draft Bill, section 44(1); schedule 2, paragraph 5(2), (3))**

62. Do you agree with the SLC’s recommendation that – **“Where in proceedings against an accused person in respect of one offence, that offence has not been proved, the accused may be convicted of another offence provided:**

**(a) the court or jury are satisfied that he committed that other offence; and**

**(b) the accused had received notice that he was liable to be convicted of that other offence.”?**

**(Paragraph 7.22; Draft Bill, section 38; schedule 2)**

## **ADDITIONAL QUESTIONS ON DEVELOPMENT OF POLICY ON RAPE AND SEXUAL OFFENCES**

### **Equal Opportunities**

1. Do you consider that any of the Scottish Law Commission's recommendations will have a particular impact – positive or negative – on a particular equality group (e.g. gender, race, disability, sexual orientation)
2. Do you have any comments as to how any legislation should be monitored and evaluated with regard to its impact on equality groups?
3. Are there any other issues relating to equality which you wish to raise in relation to the recommendations contained in the Scottish Law Commission's report?

### **Financial implications**

4. Do you have any comments or information on the likely financial implications of the Scottish Law Commission's proposals for the Scottish Government (police, Scottish court service, prison service, COPFS)?
5. Do you have any comments or information on the likely financial implications of the Scottish Law Commission's proposals for local government?
6. Do you have any comments or information on the likely financial implications, if any, of the Scottish Law Commission's proposals for other Bodies, individuals and businesses?

### **Other impacts**

7. Do you consider that the any of the proposals would have an impact on island communities, human rights, local government or sustainable development?
8. Do you have any other comments about the content of the Scottish Law Commission's report?
9. Do you have any other comments about the Scottish Law Commission's draft Bill?

**RESPONDENT INFORMATION FORM  
CONSULTATION: THE SCOTTISH LAW COMMISSION REPORT ON RAPE AND  
OTHER SEXUAL OFFENCES**

Please complete the details below and return it with your response. This will help ensure we handle your response appropriately. Thank you for your help.

Name:

Postal Address:

1. Are you responding: (please tick one box)
- (a) as an individual  go to Q2a/b and then Q4
- (b) **on behalf of** a group/organisation  go to Q3 and then Q4

**INDIVIDUALS**

- 2a. Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government website)?

Yes (go to 2b below)

No, not at all  We will treat your response as confidential

- 2b. **Where confidentiality is not requested**, we will make your response available to the public on the following basis (**please tick one** of the following boxes)

Yes, make my response, name and address all available

Yes, make my response available, but not my name or address

Yes, make my response and name available, but not my address

**ON BEHALF OF GROUPS OR ORGANISATIONS:**

- 3 The name and address of your organisation **will be** made available to the public (in the Scottish Government library and/or on the Scottish Government website). Are you also content for your **response** to be made available?

Yes

No  We will treat your response as confidential

**SHARING RESPONSES/FUTURE ENGAGEMENT**

- 4 We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for the Scottish Government to contact you again in the future in relation to this consultation response?

Yes

No