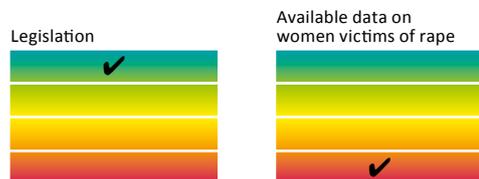


NATIONAL ANALYSIS

United Kingdom



Expert
Marsha Scott

Legislation

Scotland

The Sexual Offences (Scotland) 2009 Act reformed the law on rape to broaden the definition from one based on vaginal penetration only to one based on penile penetration of someone's vagina, anus or mouth without consent and without a reasonable belief in consent. Penetration by an object is a separate offence of sexual assault by penetration, which is equivalent in seriousness to rape.

The 2009 Act defined consent for the first time as 'free agreement' and set out explicitly that consent can be withdrawn at any time. The Act also sets out a list of circumstances where consent is assumed to be absent – this list includes when someone is incapable through alcohol or another substance, when they are asleep, where violence is used or threatened and where the only expression of agreement to the sexual activity is from a person other than the complainer.

The provisions in the Act represent a positive change in how rape is defined in Scotland, not least by including male rape for the first time.

However, the biggest challenge for Scotland remains getting rape cases to court in the first place – Crown Office data suggests that only 25% of reported rapes reach court. Scotland is one of the few countries in the world which retains a requirement for corroboration (across the board for all crimes, not just for rape). Due to the nature of rape, it can be very difficult to find sufficient corroboration to meet the legal test for sufficiency, meaning that there are significant barriers in getting rape cases to court. The Scottish Government is, however, considering removing the requirement for corroboration in Scotland, and has issued a public consultation document to this effect.

Northern Ireland

The offence of rape is now defined by the Sexual Offences (Northern Ireland) Order 2008. It carries a maximum sentence of life imprisonment. Definition of rape: A person commits the offence of rape where he intentionally penetrates the vagina, anus or mouth of another person with his penis, and that person does not consent to the penetration, and the defendant does not reasonably believe that person consents. Prosecution rates for sexual violence remain disgracefully low.

England and Wales

Under section 1(1) SOA 2003 a defendant, A, is guilty of rape if:

- A intentionally penetrates the vagina, anus or mouth of B (the complainant) with his penis;
- B does not consent to the penetration; and,
- A does not reasonably believe that B consents.



The new offence of rape in section 1(1) SOA 2003 includes oral and anal penetration with a penis. This is a change from the previous law which was only concerned with vaginal penetration and used other offences to criminalise these forms of sexual violence (such as indecent assault). The person who commits the offence of rape must be a man (as the penetration has to be with a penis). However, both women and men may experience rape. If the penetration is with something other than a penis then the offence is assault by penetration.

For the offence of rape to have been committed the defendant must have penetrated the complainant without the complainant's consent, or continued to penetrate the complainant after the complainant withdrew consent, and the defendant must not have reasonably believed that the complainant was consenting.

Available data on women victims of rape

Scotland

Data is extremely poor in relation to sexual offences, particularly the official statistics on the criminal justice system. The data which is available from the Scottish Government is not broken down at all – it does not give separate figures for female / male victims, and it does not give any breakdown of relationship of assailant e.g. stranger or known attacker.

This situation largely describes data available in the rest of the UK also.

Useful Contacts

Scotland:

Rape Crisis Scotland:
Tel: +44 141 331 4180,
info@rapecrisisscotland.org.uk,
www.rapecrisisscotland.org.uk

In Northern Ireland: Women's Aid Federation
Northern Ireland

Tel: +44 800 917 1414
www.womensaidni.org

In England & Wales: Rape Crisis England & Wales

Tel: +44 808 802 9999
www.rapecrisis.org.uk

