

CRIMINAL JUSTICE (SCOTLAND) ACT 2003

EXPLANATORY NOTES

THE ACT THE ACT IS IN 12 PARTS.

Part 8 – Evidential, Jurisdictional and Procedural Matters

Section 57 - Convictions in other Member States of the European Union

308. *Section 57* enables previous convictions in European Union Member States to be libelled and taken into account in criminal proceedings in Scotland in a similar way as previous domestic convictions. Under the existing provisions in the Criminal Procedure (Scotland) Act 1995 (the 1995 Act), previous foreign convictions cannot be taken into account by the courts because section 307 of the 1995 Act provides that previous convictions or sentences are to be construed as those laid down by courts in the United Kingdom only.
309. The provisions implement the European Union Framework Decision (FD) 2001/888 JHA adopted on 6 December 2002, which amended FD 2000/383/JHA of 29 May 2000, on increasing protection by criminal penalties and other sanctions against counterfeiting in connection with the introduction of the Euro. The FD requires every Member State to recognise the principle of the recognition of previous convictions in relation to offences involving counterfeiting the Euro under the conditions prevailing under its domestic law, and, under those same conditions to recognise for the purposes of establishing habitual criminality final sentence sentences handed down in other Member States. The provisions in section 57 go further than the FD because they allow any previous conviction to be taken into account, not just those that relate to counterfeiting the Euro.
310. Subsections (1) to (4) make provision for the situation where it is necessary to prove a previous foreign conviction.
311. Subsection (4) inserts section 286A into the 1995 Act. It provides that a certificate with the official seal of a Minister of the Member State in question containing particulars relating to a conviction extracted from the criminal records of that State, including copies of fingerprints that are certified as appearing from those records to have been taken from the person convicted on the occasion of the conviction, or the occasion of his last conviction, and which would be admissible in evidence in criminal proceedings in the State in question as a record of the skin of that person's fingers, will be sufficient evidence of the conviction and all preceding convictions. Such information as is provided can then be received in evidence in a similar way to that provided for by section 285 of the 1995 Act for UK previous convictions. Subsection 4(4) applies section 285(9) to this new section. Section 285(9) provides that the methods of proving a previous conviction authorised by the section are to be in addition to any other method of proof.
312. Subsection (5) amends the definition of previous conviction in section 307 (1) and (5) of the 1995 Act to enable previous foreign convictions to be taken into account. It also provides that, with regard to section 69(2) and section 166 of the 1995 Act, which deal with the situation where it is intended to draw to the court's attention a previous

*These notes relate to the Criminal Justice (Scotland) Act
2003 (asp 7) which received Royal Assent on 26 March 2003*

conviction in solemn and summary cases respectively, that references to previous convictions include those handed down by courts in EU Member States.