



# Criminal Justice (Scotland) Act 2003

## 2003 asp 7

### PART 3

#### SEXUAL OFFENCES ETC.

#### 19 Amendments in relation to certain serious and sexual offences

- (1) In the Civic Government (Scotland) Act 1982 (c. 45)—
- (a) in section 52 (indecent photographs etc. of children), in subsection (3)(b) for the words “3 years” there is substituted “10 years”;
  - (b) in section 52A (possession of indecent photographs of children), in subsection (3) the existing words from “on summary” to the end become paragraph (a), and after that paragraph there is inserted—
    - “(b) on conviction on indictment of such an offence to imprisonment for a period not exceeding 5 years or to a fine or to both.”.
- (2) In the Criminal Law (Consolidation) (Scotland) Act 1995 (c. 39)—
- (a) in section 8 (abduction and unlawful detention), subsections (1) and (2) are repealed;
  - (b) section 15 (defence to charge of indecent assault) is repealed;
  - (c) <sup>F1</sup> .....
- (3) In the Crime and Punishment (Scotland) Act 1997 (c. 48), section 1 (imprisonment for life on further conviction for certain offences) is repealed.

#### Textual Amendments

- F1** S. 19(2)(c) repealed (1.12.2010) by [Sexual Offences \(Scotland\) Act 2009 \(asp 9\)](#), ss. 61(1), 62(2), [Sch. 6](#); S.S.I. 2010/357, [art. 2\(a\)](#)

#### 20 Extended sentences

After section 210A of the 1995 Act (extended sentences for sexual or violent offenders) there is inserted—

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### **“210AA Extended sentences for certain other offenders**

Where a person is convicted on indictment of abduction but the offence is other than is mentioned in paragraph (iii) of the definition of “sexual offence” in subsection (10) of section 210A of this Act, that section shall apply in relation to the person as it applies in relation to a person so convicted of a violent offence.”.

## **21 Sexual and certain other offences: reports**

- (1) This section applies to any case where a person is convicted of—
  - (a) a sexual offence (as defined in section 210A(10) of the 1995 Act); or
  - (b) an offence the nature and circumstances of which disclose, in the opinion of the court, that there was a significant sexual aspect to the person’s behaviour in committing it.
- (2) In a case to which this section applies, the court must, before passing sentence—
  - (a) obtain from a relevant officer a report concerning the person’s circumstances and character; and
  - (b) if the conviction is on indictment, obtain from [<sup>F2</sup>a registered psychologist (that is to say from a person for the time being registered in the part of the register maintained under [<sup>F3</sup>the Health Professions Order 2001] that relates to practitioner psychologists)] a psychological assessment of the person, and it must also take into account any information before it concerning the person’s physical and mental condition.
- (3) The Scottish Ministers may by order amend paragraph (b) of subsection (2) by adding, to the persons for the time being specified there as persons from one of whom a psychological assessment is to be obtained, such description of psychologist as they think fit.
- (4) Where in a case to which this section applies the person is tried, the presiding judge is, as soon as is reasonably practicable, to prepare a report in writing, in such form as may be prescribed by Act of Adjournal—
  - (a) as to the facts established by the evidence; and
  - (b) containing such other information as the judge considers appropriate.
- (5) Where a case to which this section applies does not proceed to trial (or does not proceed to trial as respects part of the complaint or indictment) because a plea of guilty to the complaint, indictment or part in question is accepted by the prosecutor, the narration by the prosecutor, at the diet at which the plea is tendered, of the facts of the case is to be recorded by means of shorthand notes or by mechanical means as is anything said by or on behalf of the person in relation to those facts.
- (6) Subsections (2) to (4) of section 93 of the 1995 Act (certification etc. of notes or record) shall apply in relation to a record made under subsection (5) as they apply in relation to one made under subsection (1) of that section.
- (7) The Scottish Ministers may by order amend subsections (5) and (6) so as to provide for a record so made to be made by such other means as they think fit.
- (8) A copy of any report prepared under subsection (4) or a transcript of any record made under subsection (5) is to be sent to—

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- (a) the officer from whom a report is sought under paragraph (a) of subsection (2) when written intimation of the requirement for the report is first given to that officer; and
- (b) any psychologist from whom an assessment is sought under paragraph (b) of that subsection when such intimation of the requirement for that assessment is first given to that psychologist.

[<sup>F4</sup>(9) In relation to a case to which this section applies, subsection (3) of section 201 of the 1995 Act (limitation as respects power of court to adjourn case before sentence) shall have effect as if for the words [<sup>F5</sup>“four weeks” there were] substituted “ six weeks ”.]

[<sup>F4</sup>(10) In that subsection, at the beginning, there is inserted “ Subject to section 21(9) of the Criminal Justice (Scotland) Act 2003 (asp 7), ”.]

- (11) In subsection (2)(a), “relevant officer” means an officer—
  - (a) of the local authority for the area within which the convicted person resides; and
  - (b) employed by them in the discharge of their functions under section 27(1) (supervision and care of persons put on probation or released from prison etc.) or 27AA (advice, guidance and assistance to persons arrested or on whom sentence deferred) of the Social Work (Scotland) Act 1968 (c. 49).

#### Textual Amendments

- F2** Words in s. 21(2)(b) substituted (1.7.2009) by [The Health Care and Associated Professions \(Miscellaneous Amendments and Practitioner Psychologists\) Order 2009 \(S.I. 2009/1182\)](#), arts. 1(9), 4(2), [Sch. 5 para. 11](#); S.I. 2009/1357, [art. 2\(1\)\(d\)](#)
- F3** Words in s. 21(2)(b) substituted (2.12.2019) by [Children and Social Work Act 2017 \(c. 16\)](#), s. 70(2), [Sch. 5 para. 48\(c\)](#); S.I. 2019/1436, reg. 2(s)
- F4** S. 21(9)(10) repealed (temp.) (7.4.2020) by virtue of [Coronavirus \(Scotland\) Act 2020 \(asp 7\)](#), s. 17(1), [sch. 4 para. 10\(8\)](#) (with ss. 11-13)
- F5** Words in s. 21(9) substituted (1.5.2004) by [Sexual Offences Act 2003 \(c. 42\)](#), ss. 139, 141(1), [Sch. 6 para. 49](#); S.I. 2004/874, [art. 2](#)

#### Commencement Information

- I1** S. 21 partly in force; s. 21 not in force at Royal Assent, see s. 89(2); s. 21(1)-(8)(11) in force for specified purposes at 3.11.2003 by [S.S.I. 2003/475](#), [art. 2](#), [Sch.](#); s. 21(9)(10) in force at 10.6.2004 by [S.S.I. 2004/240](#), [art. 2\(1\)](#)

## <sup>F6</sup>22 Traffic in prostitution etc.

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#### Textual Amendments

- F6** [S. 22](#) repealed (17.12.2016) by [Human Trafficking and Exploitation \(Scotland\) Act 2015 \(asp 12\)](#), s. 45(2), [sch. para. 2](#) (with s. 44); S.I. 2016/385, reg. 2 (with reg. 3)

**Changes to legislation:**

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**Changes and effects yet to be applied to :**

- specified provision(s) and purposes Appointed Day(s) by [S.S.I. 2003/439 art. 23Sch.](#) (Effect not applied to legislation.gov.uk. This S.S.I. is revoked (1.10.2003) by S.S.I. 2003/475, art. 4)

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 16D inserted by [2023 asp 4 s. 14\(3\)](#)
- s. 16ZA inserted by [2023 asp 4 s. 14\(2\)](#)
- s. 17E(6) inserted by [2023 asp 4 s. 14\(7\)\(d\)](#)
- s. 17DA inserted by [2023 asp 4 s. 14\(6\)](#)
- s. 17ZA inserted by [2023 asp 4 s. 14\(4\)](#)
- s. 18A(5) inserted by [2023 asp 4 s. 14\(8\)\(b\)](#)