



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- (a) in section 8 (abduction and unlawful detention), subsections (1) and (2) are repealed;
 - (b) section 15 (defence to charge of indecent assault) is repealed;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) in section 16B (commission of certain sexual acts outside the United Kingdom), after subsection (6) there is inserted—
 - “(6A) A person may be proceeded against, indicted, tried and punished for any offence to which this section applies—
 - (a) in any sheriff court district in Scotland in which he is apprehended or is in custody; or
 - (b) in such sheriff court district as the Lord Advocate may determine,as if the offence had been committed in that district; and the offence shall, for all purposes incidental to or consequential on trial or punishment, be deemed to have been committed in that district.

(6B) In subsection (6A) above, “sheriff court district” shall be construed in accordance with section 307(1) (interpretation) of the Criminal Procedure (Scotland) Act 1995 (c. 46).”.

- (3) In the Crime and Punishment (Scotland) Act 1997 (c. 48), section 1 (imprisonment for life on further conviction for certain offences) is repealed.

20 Extended sentences

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

“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 a chartered clinical psychologist or chartered forensic psychologist (that is to say from a person for the time being so described in the British Psychological Society’s Register of Chartered 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 Adjourn—
- (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

Status: This is the original version (as it was originally enacted).

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—
- (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.
- (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—
- (a) “three weeks” in paragraph (a); and
 - (b) “four weeks” in paragraph (b),
- there were in each case substituted “six weeks”.
- (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).

22 Traffic in prostitution etc.

- (1) A person commits an offence who arranges or facilitates—
- (a) the arrival in the United Kingdom of, or travel there (whether or not following such arrival) by, an individual and—
 - (i) intends to exercise control over prostitution by the individual or to involve the individual in the making or production of obscene or indecent material; or
 - (ii) believes that another person is likely to exercise such control or so to involve the individual,there or elsewhere; or
 - (b) the departure from there of an individual and—
 - (i) intends to exercise such control or so to involve the individual; or
 - (ii) believes that another person is likely to exercise such control or so to involve the individual,

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

outwith the United Kingdom.

- (2) For the purposes of subsection (1), a person exercises control over prostitution by an individual if the person exercises control, direction or influence over the prostitute's movements in a way which shows that the person is aiding, abetting or compelling the prostitution.
- (3) A person guilty of an offence under this section is liable—
 - (a) on conviction on indictment, to imprisonment for a term not exceeding fourteen years, to a fine or to both; or
 - (b) on summary conviction, to imprisonment for a term not exceeding six months, to a fine not exceeding the statutory maximum or to both.
- (4) Subsection (1) applies to anything done—
 - (a) in the United Kingdom; or
 - (b) outwith the United Kingdom—
 - (i) by an individual to whom subsection (6) applies; or
 - (ii) by a body incorporated under the law of a part of the United Kingdom.
- (5) If an offence under this section is committed outwith the United Kingdom, proceedings may be taken in any place in Scotland; and the offence may for incidental purposes be treated as having been committed in that place.
- (6) This subsection applies to—
 - (a) a British citizen;
 - (b) a British overseas territories citizen;
 - (c) a British National (Overseas);
 - (d) a British Overseas citizen;
 - (e) a person who is a British subject under the British Nationality Act 1981 (c. 61); and
 - (f) a British protected person within the meaning of that Act.
- (7) In this section, “material” has the same meaning as in section 51 of the Civic Government (Scotland) Act 1982 (c. 45) and includes a pseudo-photograph within the meaning of section 52 of that Act, a copy of a pseudo-photograph and data stored on a computer disc or by any other electronic means which is capable of conversion into a photograph or pseudo-photograph.