
SCOTTISH STATUTORY INSTRUMENTS

2004 No. 411

CRIMINAL LAW

The Victim Notification (Prescribed Offences) (Scotland) Order 2004

Made - - - - 21st September 2004
Laid before the Scottish Parliament - - - - 24th September 2004
Coming into force - - 1st November 2004

The Scottish Ministers, in exercise of the powers conferred by section 16(1) of the Criminal Justice (Scotland) Act 2003⁽¹⁾ and of all other powers enabling them in that behalf, hereby make the following Order:

Citation and commencement

1. This Order may be cited as the Victim Notification (Prescribed Offences) (Scotland) Order 2004 and shall come into force on 1st November 2004.

Prescribed offences

2. An offence specified in the Schedule to this Order is prescribed for the purposes of section 16(1) of the Criminal Justice (Scotland) Act 2003.

St Andrew's House, Edinburgh
21st September 2004

HUGH HENRY
Authorised to sign by the Scottish Ministers

(1) 2003 asp 7. See section 87(1) for the definition of "prescribed".

SCHEDULE

Article 2

Non-sexual crimes of violence

1. Murder.
2. Culpable homicide.
3. Abduction.
4. Assault.
5. Robbery.
6. Hamesucken.
7. Cruel and unnatural treatment.
8. An offence under section 12 of the Children and Young Persons (Scotland) Act 1937 (c. 37) (cruelty to persons under 16).

Sexual crimes of violence and indecent crimes

9. Rape.
10. Sodomy.
11. Abduction of a woman or girl with intent to rape.
12. Assault with intent to rape or ravish.
13. Indecent assault.
14. Lewd, indecent or libidinous behaviour or practices.
15. Clandestine injury to women.
16. Shameless indecency.
17. An offence under section 106(1)(a) or 107 of the Mental Health (Scotland) Act 1984 (c. 36) (unlawful sexual intercourse with mentally handicapped female or with patient).
18. An offence under section 311 of the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13) (non consensual sexual acts with mentally disordered person).
19. An offence under any of the following provisions of the Criminal Law (Consolidation) (Scotland) Act 1995 (c. 39)–
 - (a) sections 1 to 3 (incest and related offences);
 - (b) section 5 (unlawful sexual intercourse with a girl under 16);
 - (c) section 6 (indecent behaviour towards girl between 12 and 16).
20. An offence under section 3 of the Sexual Offences (Amendment) Act 2000 (c. 44) (abuse of position of trust).
21. An offence under section 22 of the Criminal Justice (Scotland) Act 2003 (asp 7) (traffic in prostitution).
22. An offence under any of the following provisions of the Civic Government (Scotland) Act 1982 (c. 45)–
 - (a) section 52 (indecent photographs etc. of children);
 - (b) section 52A (possession of indecent photographs of children).

23. Any offence where there was a significant sexual aspect to the offender's behaviour in committing the offence.

Firearms

24. An offence under any of the following provisions of the Firearms Act 1968 (c. 27)–
- (a) section 16 (possession of firearm with intent to injure);
 - (b) section 16A (possession of firearm with intent to cause fear of violence);
 - (c) section 17(1) and (2) (use of firearm to resist arrest/possession of firearm when committing a crime);
 - (d) section 18 (carrying firearm with criminal intent);
 - (e) section 19 (carrying firearm in a public place);
 - (f) section 20(1) (trespassing with firearm in a building).

Housebreaking etc.

25. Theft by housebreaking.
26. Housebreaking with intent to steal.

Hate crimes

27. An offence under section 50A of the Criminal Law (Consolidation) (Scotland) Act 1995 (c. 39) (racially aggravated harassment).
28. An offence racially aggravated in terms of section 96 of the Crime and Disorder Act 1998 (c. 37).
29. An offence aggravated by religious prejudice in terms of section 74 of the Criminal Justice (Scotland) Act 2003 (asp 7).

Road Traffic

30. An offence under any of the following provisions of the Road Traffic Act 1988 (c. 52)–
- (a) section 1 (causing death by dangerous driving);
 - (b) section 3A (causing death by careless driving when under the influence of drink or drugs).

Other crimes

31. Breach of the Peace.
32. Extortion.
33. Fireraising.
34. Threats.

Inchoate offences

35. An offence of conspiracy or inciting the commission of an offence specified in this Schedule.
36. An offence of aiding, abetting, counselling or procuring the commission of an offence specified in this Schedule.
37. An attempt to commit an offence specified in this Schedule.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order prescribes the offences for which a victim will be entitled under section 16(1) of the Criminal Justice (Scotland) Act 2003 to receive certain information specified in section 16(3) relating to the person who perpetrated the offence against them. Victims entitled to receive such information will also be entitled to be given an opportunity under section 17(1) of the 2003 Act to make representations in relation to the release of that person.

The effect of the Order is that where a person is convicted of an offence prescribed in this Order and sentenced to a period of four years or more, the victim of that offence must be given the option of receiving certain information in relation to the release, temporary release, transfer, death in custody or escape of that person (unless Scottish Ministers consider that there are exceptional circumstances which make it inappropriate to do so). The victim must also be given the opportunity, before any decision is taken to release that person on licence, to make written representations to the Scottish Ministers as respects such release and as to the conditions which might be specified in the licence on which the person will be released. The victim must have intimated a wish to receive the information and to be given the opportunity to make representations.