

*This Scottish Statutory Instrument has been made in consequence of a defect in S.S.I. 2009/31 and is being issued free of charge to all known recipients of that Order.*

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SCOTTISH STATUTORY INSTRUMENTS

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**2009 No. 71**

**CRIMINAL LAW**

**The Victim Statements (Prescribed Offences) (No. 2) (Scotland)  
Order 2009**

<i>Made</i> - - - -	<i>24th February 2009</i>
<i>Laid before the Scottish Parliament</i>	<i>25th February 2009</i>
<i>Coming into force</i> - -	<i>1st April 2009</i>

The Scottish Ministers make the following Order in exercise of the powers conferred by section 14(2) of the Criminal Justice (Scotland) Act 2003(a) and all other powers enabling them to do so.

**Citation, commencement and interpretation**

1.—(1) This Order may be cited as the Victim Statements (Prescribed Offences) (No. 2) (Scotland) Order 2009 and shall come into force on 1st April 2009.

(2) This Order applies to offences in respect of which the procurator fiscal receives the relevant police report on or after 1st April 2009.

(3) In paragraph (2) “relevant police report” means the report made for the purposes of deciding whether to bring proceedings in respect of an offence.

**Revocation**

2. This Order revokes the Victim Statements (Prescribed Offences) (Scotland) Order 2009(b).

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(a) 2003 asp 7. See section 87(1) for the definition of “prescribed”.  
(b) S.S.I. 2009/31.

### **Prescribed Offences**

3. An offence specified in the Schedule to this Order is prescribed for the purposes of section 14(2) of the Criminal Justice (Scotland) Act 2003(a).

St Andrew's House,  
Edinburgh  
24th February 2009

*KENNY MACASKILL*  
A member of the Scottish Executive

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(a) Section 87(2) of that Act defines "offence" by reference to section 307(1) of the Criminal Procedure (Scotland) Act 1995 (c.46).

## SCHEDULE

Article 3

### OFFENCES PRESCRIBED FOR THE PURPOSES OF SECTION 14(2) OF THE CRIMINAL JUSTICE (SCOTLAND) ACT 2003

#### *Non-sexual crimes of violence*

1. Murder.
2. Culpable homicide.
3. Abduction.
4. Assault.
5. Robbery.
6. Cruel and unnatural treatment.
7. An offence under section 12 of the Children and Young Persons (Scotland) Act 1937 (c.37) (cruelty to persons under 16).
8. An offence under section 41(1)(a) of the Police (Scotland) Act 1967 (c.77) (assault on constables etc.) but only in respect of an assault on a constable.

#### *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. An offence under section 311 or 313 of the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13).
16. An offence under any of the following provisions of the Criminal Law (Consolidation) (Scotland) Act 1995 (c.39):–
  - (a) sections 1-3 (incest and related offences);
  - (b) section 5 (unlawful sexual intercourse with a girl under the age of 16);
  - (c) section 6 (indecent behaviour towards a girl between the ages of 12 and 16);
  - (d) section 7(1), (2) and (3) (procuring);
  - (e) section 8 (abduction and unlawful detention);
  - (f) section 10 (seduction, prostitution etc. of a girl under the age of 16);
  - (g) section 13(5)(b) or (c) (homosexual offences).
17. An offence under section 3 of the Sexual Offences (Amendment) Act 2000 (c.44) (abuse of position of trust).
18. Any offence where there was a significant sexual aspect to the offender's behaviour in committing the offence.

*Housebreaking etc.*

- 19.** Theft by housebreaking.

*Racially motivated crimes*

**20.** An offence under section 50A of the Criminal Law (Consolidation) (Scotland) Act 1995 (racially-aggravated harassment).

**21.** An offence under section 96 of the Crime and Disorder Act 1998 (c.37) (offences racially aggravated).

*Road Traffic Offences*

**22.** An offence under section 1 of the Road Traffic Act 1988 (c.52) (causing death by dangerous driving).

**23.** An offence under section 2B of that Act (causing death by careless or inconsiderate driving).

**24.** An offence under section 3A of that Act (causing death by careless driving when under the influence of drink or drugs).

**25.** An offence under section 3ZB of that Act (causing death by driving: unlicensed, disqualified or uninsured drivers).

*Other*

- 26.** Fireraising.

*Inchoate offences*

**27.** An offence of conspiring or inciting the commission of an offence specified in paragraphs 1-26 of this Schedule.

**28.** An offence of aiding, abetting, counselling or procuring the commission of such an offence.

## **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order prescribes the offences for which a victim will be afforded an opportunity to make a victim statement for the purposes of section 14(2) of the Criminal Justice (Scotland) Act 2003.

The effect of the Order is that a victim statement may be made where proceedings are to be taken or are likely to be taken in respect of one or more of the prescribed offences. The order only applies to offences reported to the procurator fiscal on or after the 1st April 2009.

The revocation is to correct an error in the Victim Statements (Prescribed Offences) (Scotland) Order 2009.

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