



Criminal Justice (Scotland) Act 2003

2003 asp 7

PART 3

SEXUAL OFFENCES ETC.

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 [^{F1}a registered psychologist (that is to say from a person for the time being registered in the part of the register maintained under [^{F2}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 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

Changes to legislation: There are currently no known outstanding effects for the Criminal Justice (Scotland) Act 2003, Section 21. (See end of Document for details)

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—
 - (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.
- [^{F3}(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 [^{F4}“four weeks” there were] substituted “ six weeks ”.]
- [^{F3}(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

- F1** 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\(1\)\(d\)](#)
- F2** 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)
- F3** 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)
- F4** 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.I. 2003/475](#), [art. 2](#), [Sch.](#); s. 21(9)(10) in force at 10.6.2004 by [S.I. 2004/240](#), [art. 2\(1\)](#)

Changes to legislation:

There are currently no known outstanding effects for the Criminal Justice (Scotland) Act 2003, Section 21.