



Criminal Justice (Scotland) Act 2003

2003 asp 7

PART 8

EVIDENTIAL, JURISDICTIONAL AND PROCEDURAL MATTERS

Evidential matters

57 Convictions in other member States of the European Union

- (1) The 1995 Act is amended as follows.
- (2) In section 101(8) (manner of proving previous conviction in solemn proceedings)—
 - (a) after the words “section 285” there is inserted “, or as the case may be 286A,”;
 - and
 - (b) for the words “said section” there is substituted “section in question”.
- (3) In section 286 (proof of previous conviction in support of substantive charge), at the end there is added—
 - “(3) The reference in subsection (1)(a) above to “the clerk of court having custody of the record containing the conviction” includes, in relation to a previous conviction by a court in another member State of the European Union, a reference to any officer of that court or of that State having such custody.”.
- (4) After section 286 there is inserted—

“286A Proof of previous conviction by court in other member State

- (1) A previous conviction by a court in another member State of the European Union may be proved against any person in any criminal proceedings by the production of evidence of the conviction and by showing that his fingerprints and those of the person convicted are the fingerprints of the same person.
- (2) A certificate—
 - (a) bearing—
 - (i) to have been sealed with the official seal of a Minister of the State in question; and

Status: This is the original version (as it was originally enacted).

- (ii) to contain particulars relating to a conviction extracted from the criminal records of that State; and
 - (b) including copies of fingerprints and certifying that those copies—
 - (i) are of fingerprints appearing from those records to have been taken from the person convicted on the occasion of the conviction, or on the occasion of his last conviction; and
 - (ii) would be admissible in evidence in criminal proceedings in that State as a record of the skin of that person’s fingers,shall be sufficient evidence of the conviction or, as the case may be, of the person’s last conviction and of all preceding convictions and that the copies of the fingerprints included in the certificate are copies of the fingerprints of the person convicted.
- (3) A conviction bearing to have been—
 - (a) extracted from the criminal records of the State in question; and
 - (b) issued by an officer of that State whose duties include the issuing of such extracts,shall be received in evidence without being sworn to by witnesses.
- (4) Subsection (9) of section 285 of this Act applies in relation to this section as it does in relation to that section.”.
- (5) In section 307 (interpretation)—
 - (a) in subsection (1), in the definition of “extract conviction” and “extract of previous conviction”, at the end there is added “and also include a conviction extracted and issued as mentioned in section 286A(3)(a) and (b) of this Act”; and
 - (b) in subsection (5), at the end there is added “except—
 - (a) where the context otherwise requires; and
 - (b) in sections 69(2) and 166, where such a reference includes a reference to a previous conviction, by a court in another member State of the European Union, of an act punishable under the law in force in that State (an act so punishable being taken to constitute an offence under that law however described in that law)”.