
Changes to legislation: Domestic Abuse Act 2021, PART 2 is up to date with all changes known to be in force on or before 04 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

SCHEDULES

SCHEDULE 3

AMENDMENTS RELATING TO OFFENCES COMMITTED OUTSIDE THE UK

PART 2

SCOTLAND

Criminal Procedure (Scotland) Act 1995

- 4 (1) Section 11 of the Criminal Procedure (Scotland) Act 1995 (certain offences committed outside Scotland) is amended as follows.
- (2) In subsections (1) and (2), for “British citizen or British subject” substitute “relevant person”.
- (3) After subsection (2) insert—
- “(2A) Any relevant person who in a country outside the United Kingdom does any act which—
- (a) constitutes an offence under the law in force in that country, and
 - (b) if done in Scotland would constitute the crime of assault,
- is guilty of the same crime and subject to the same punishment as if the act had been done in Scotland.
- (2B) For the purposes of subsection (2A)(a), an act punishable under the law in force in the country is an offence under that law however it is described in that law.
- (2C) The condition specified in subsection (2A)(a) is to be taken as satisfied unless, not later than such time as may be prescribed by Act of Adjournal, the accused serves on the prosecutor a notice—
- (a) stating that, on the facts as alleged with respect to the act in question, the condition is not in the accused's opinion satisfied,
 - (b) setting out the grounds for the accused's opinion, and
 - (c) requiring the prosecutor to prove that the condition is satisfied.
- (2D) But the court, if it thinks fit, may permit the accused to require the prosecutor to prove that the condition is satisfied without the prior service of a notice under subsection (2C).
- (2E) In proceedings on indictment, the question whether the condition is satisfied is to be determined by the judge alone.
- (2F) For the purposes of subsections (1) to (2B)—
- “country” includes territory;

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“relevant person” means a person who is a United Kingdom national or is habitually resident in Scotland;

“United Kingdom national” means an individual who is—

- (a) a British citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen,
- (b) a person who under the British Nationality Act 1981 is a British subject, or
- (c) a British protected person within the meaning of that Act.”

Sexual Offences (Scotland) Act 2009 (asp 9)

5 (1) The Sexual Offences (Scotland) Act 2009 is amended as follows.

(2) After section 54C insert—

“54D Offences committed outside the United Kingdom: adult victims

(1) If—

- (a) a person who is a UK national does an act in a country outside the United Kingdom, and
- (b) the act, if done in Scotland, would constitute an offence to which this subsection applies,

then the person commits that offence.

(2) If—

- (a) a person who is habitually resident in Scotland does an act in a country outside the United Kingdom,
- (b) the act constitutes an offence under the law in force in that country, and
- (c) the act, if done in Scotland, would constitute an offence to which this subsection applies,

then the person commits that offence.

(3) The offences to which subsections (1) and (2) apply are offences under any of sections 1 to 4 where the victim of the offence was 18 or over at the time of the offence.

(4) For the purposes of subsection (2)(b), an act punishable under the law in force in the country is an offence under that law however it is described in that law.

(5) The condition specified in subsection (2)(b) is to be taken as satisfied unless, not later than such time as may be prescribed by Act of Adjournal, the accused serves on the prosecutor a notice—

- (a) stating that, on the facts as alleged with respect to the act in question, the condition is not in the accused's opinion satisfied,
- (b) setting out the grounds for the accused's opinion, and
- (c) requiring the prosecutor to prove that the condition is satisfied.

(6) But the court, if it thinks fit, may permit the accused to require the prosecutor to prove that the condition is satisfied without the prior service of a notice under subsection (5).

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- (7) In proceedings on indictment, the question whether the condition is satisfied is to be determined by the judge alone.
- (8) A person may be prosecuted, tried and punished for an offence by virtue of this section—
 - (a) in any sheriff court district in Scotland in which the person 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 is, for all purposes incidental to or consequential on trial or punishment, to be deemed to have been committed in that district.
- (9) In this section—
 - “country” includes territory;
 - “sheriff court district” is to be construed in accordance with section 307(1) of the Criminal Procedure (Scotland) Act 1995 (interpretation);
 - “UK national” means an individual who is—
 - (a) a British citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen,
 - (b) a person who under the British Nationality Act 1981 is a British subject, or
 - (c) a British protected person within the meaning of that Act.”
- (3) In the heading of section 55, at the end insert “ : child victims ”.
- (4) For the heading of section 56 substitute “ Section 55: continuity of law ”.

Criminal Justice and Licensing (Scotland) Act 2010 (asp 13)

- 6 In the Criminal Justice and Licensing (Scotland) Act 2010, after section 39 insert—

“39A Offence of stalking committed outside the United Kingdom

- (1) If—
 - (a) a person's course of conduct consists of or includes conduct in a country outside the United Kingdom,
 - (b) the course of conduct would constitute the offence of stalking if it occurred in Scotland, and
 - (c) the person is a United Kingdom national or is habitually resident in Scotland,then the person commits that offence.
- (2) If a person's course of conduct consists entirely of conduct in a country outside the United Kingdom—
 - (a) the person may be prosecuted, tried and punished for an offence of stalking by virtue of this section—
 - (i) in any sheriff court district in Scotland in which the person is apprehended or is in custody, or
 - (ii) in such sheriff court district as the Lord Advocate may determine,

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- as if the offence had been committed entirely in that district, and
- (b) the offence is, for all purposes incidental to or consequential on trial or punishment, to be deemed to have been committed entirely in that district.

(3) In this section—

“country” includes territory;

“sheriff court district” is to be construed in accordance with section 307(1) of the Criminal Procedure (Scotland) Act 1995 (interpretation);

“United Kingdom national” means an individual who is—

- (a) a British citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen,
- (b) a person who under the British Nationality Act 1981 is a British subject, or
- (c) a British protected person within the meaning of that Act.”

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 15(3)(r) inserted by [S.I. 2024/421 reg. 2](#)