

CRIMINAL JUSTICE (SCOTLAND) ACT 2003

EXPLANATORY NOTES

THE ACT THE ACT IS IN 12 PARTS.

Part 3 – Sexual Offences Etc.

Section 19 – Amendments in relation to certain serious and sexual offences

85. **Section 19** amends the Civic Government (Scotland) Act 1982, the Criminal Law (Consolidation) (Scotland) Act 1995 and the Crime and Punishment (Scotland) Act 1997.
86. **Section 19(1)(a)** and (b) respectively amend sections 52 (the taking, showing or distribution of indecent photographs of a children) and 52A (the possession of indecent photographs of children) of the Civic Government (Scotland) Act 1982. The amendment to section 52 will increase the period of imprisonment for conviction on indictment from three years to ten years. The amendment to section 52A will allow the prosecution of these offences on indictment, with penalties of imprisonment for up to a period of five years or a fine or both.
87. **Section 19(2)(a)** repeals sections 8(1) and (2) of the Criminal Law (Consolidation) (Scotland) Act 1995. Section 8(1) of that Act creates an offence of removing an unmarried girl from and against the will of her parents with the intent that she has unlawful sexual intercourse. Section 8(2) provides a defence that the accused had reasonable cause to believe the girl was 18 years of age or over. Repealing this provision will not affect the law on abduction or the prohibitions on intercourse with a girl under 13.
88. **Section 19(2)(b)** repeals section 15 of the Criminal Law (Consolidation) (Scotland) Act 1995 which provides a legal defence to a charge of indecent assault against a girl under 16 on the grounds that her assailant had reasonable cause to believe that the girl was his wife.
89. **Section 19(2)(c)** amends section 16B of the Criminal Law (Consolidation) (Scotland) Act 1995. The amendment will enable sex offences defined in that section and committed abroad by a British citizen or resident of the United Kingdom (and recognised by the relevant country as offences) to be tried in the sheriff court district in which the accused is apprehended or in custody or in such sheriff court district as the Lord Advocate may determine. Currently such offences may only be tried in the High Court.
90. **Section 19(3)** repeals section 1 of the Crime and Punishment (Scotland) Act 1997, which added a new section (section 205A) to the Criminal Procedure (Scotland) Act 1995. Section 205A makes provision for an automatic life sentence in circumstances where a person is convicted of two or more specified serious offences, but has never been brought into force.