



Sexual Offences (Scotland) Act 2009

2009 asp 9

PART 7

MISCELLANEOUS AND GENERAL

Miscellaneous

54 Incitement to commit certain sexual acts outside the United Kingdom

- (1) If a person does an act in Scotland which would amount to the offence of incitement to commit a listed offence but for the fact that what the person had in view (referred to in this section as “the relevant conduct”) is intended to occur in a country outside the United Kingdom, then—
 - (a) the relevant conduct is to be treated as the listed offence, and
 - (b) the person accordingly commits the offence of incitement to commit the listed offence.
- (2) However, a person who is not a UK national commits an offence by virtue of subsection (1) only if the relevant conduct would also involve the commission of an offence under the law in force in the country where the whole or any part of it was intended to take place.
- (3) Conduct punishable under the law in force in the country is an offence under that law for the purposes of subsection (2) however it is described in that law.
- (4) The condition specified in subsection (2) 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 relevant conduct, 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.
- (5) 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 that subsection.

Status: This is the original version (as it was originally enacted).

- (6) In proceedings on indictment, the question whether the condition is satisfied is to be determined by the judge alone.
- (7) Any act of incitement by means of a message (however communicated) is to be treated as done in Scotland if the message is sent or received in Scotland.
- (8) In this section—
- “country” includes territory,
 - “listed offence” means an offence listed in Part 1 of schedule 4,
 - “UK national” means an individual who was at the time the relevant conduct took place, or who has subsequently become—
 - (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.