

SCHEDULE 4
CONVICTIONS BY COURTS IN OTHER EU MEMBER
STATES: MODIFICATIONS OF ENACTMENTS

PART 2

OTHER ENACTMENTS

The Sexual Offences (Scotland) Act 2009 (asp 9)

- 13 (1) Section 39 of the Sexual Offences (Scotland) Act 2009 (defences in relation to offences against older children) is amended as follows.
- (2) In subsection (2)—
- (a) in paragraph (a)—
- (i) the word “or” immediately following sub-paragraph (i) is repealed,
and
- (ii) after sub-paragraph (i) insert—
- “(ia) if A has a previous conviction for a relevant foreign offence committed against a person under the age of 16, or”, and
- (b) in paragraph (b)—
- (i) the word “or” immediately following sub-paragraph (i) is repealed,
and
- (ii) after sub-paragraph (i) insert—
- “(ia) if B has a previous conviction for a relevant foreign offence committed against a person under the age of 16, or”.
- (3) In subsection (5), after paragraph (a) insert—
- “(aa) “a previous conviction for a relevant foreign offence” means a previous conviction by a court in a member State of the European Union other than the United Kingdom for an offence that is equivalent to one listed in paragraph 1, 4, 7, 10, 13 (so far as applying to an offence listed in paragraph 1, 4, 7 or 10) or 14 of schedule 1,”.
- (4) After subsection (5) insert—
- “(5A) Any issue of equivalence arising in pursuance of subsection (5)(aa) is for the court to determine.
- (5B) For that purpose, an offence may be equivalent to one listed in paragraph 1, 4, 7, 10, 13 (so far as applying to an offence listed in paragraph 1, 4, 7 or 10) or 14 of schedule 1 even though, under the law of the member State (or part of the member State) in question, it is an offence—
- (a) regardless of the age of the victim, or
- (b) only if committed against a person under an age other than 16 years.”.