



# Forensic Medical Services (Victims of Sexual Offences) (Scotland) Act 2021

## 2021 asp 3

### *Examination of under-age persons*

#### **11 Examination of under-age person under section 2(2)(b)**

- (1) Subsection (2) applies where—
  - (a) a forensic medical examination has been carried out by virtue of section 2(2)(b), and
  - (b) the health board subsequently establishes that the person was, at the time of the examination, under the age mentioned in that section at that time.
- (2) The fact that the person was under that age at that time does not affect the validity of—
  - (a) the carrying out of the examination,
  - (b) anything done by the health board prior to the person's true age being established in relation to any evidence collected during the examination,
  - (c) the continuing storage of any such evidence under section 6.
- (3) Following the person's true age being established, sections 7 and 8 do not apply in relation to any evidence collected during the examination.
- (4) Accordingly, where, at the time the person's true age is established—
  - (a) a request for the return of an item stored by the health board under section 6 has been made by the person under section 7 but not yet complied with, the health board must refuse the request,
  - (b) a request for destruction of evidence stored by the health board under section 6 has been made by the person under section 8(1)(a) but the evidence not yet destroyed, the health board must ensure that the evidence is not destroyed on the basis of that request (unless it is not reasonably practicable to stop the destruction of the evidence).