



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

## 2021 asp 3

### *The examination service*

#### **2 The examination service**

- (1) The examination service consists of providing forensic medical examinations to persons falling within subsection (2) (but see section 3).
- (2) A person falls within this subsection if—
  - (a) the person is referred by a constable to the health board for a forensic medical examination in connection with an incident in which—
    - (i) a sexual offence is alleged to have been committed against the person, or
    - (ii) the person is alleged to have been the subject of harmful sexual behaviour by a child under the age of criminal responsibility, or
  - (b) the person is aged 16 or over and requests such an examination in connection with an incident reported to the health board by the person as being of the type mentioned in paragraph (a).
- (3) A forensic medical examination is a physical medical examination carried out for purposes including the collection of evidence for use in connection with—
  - (a) any investigation of the incident which gave rise to the need for the examination, or
  - (b) any proceedings in relation to the incident.
- (4) The Scottish Ministers may by regulations substitute a different age for the age for the time being specified in subsection (2)(b).
- (5) The age substituted for the age for the time being specified in subsection (2)(b) in regulations under subsection (4) must be—
  - (a) no lower than 13, and
  - (b) no higher than 18.
- (6) Regulations under subsection (4) may make transitional, transitory or saving provision.

- (7) Regulations under subsection (4) are subject to the affirmative procedure.
- (8) Before the end of each reporting period, the Scottish Ministers must lay before the Scottish Parliament a statement explaining—
- (a) why they will be laying draft regulations under subsection (4) before the Scottish Parliament, or
  - (b) why they will not be laying draft regulations under subsection (4) before the Scottish Parliament.
- (9) Whether or not the statement under (8) indicates that the Scottish Ministers will be laying draft regulations under subsection (4), the statement under subsection (8) must indicate—
- (a) what consideration has been given by the Scottish Ministers to the support that would be given to persons under 16 should subsection (2)(b) be amended so that such persons can request a forensic medical examination,
  - (b) what support is being or will be provided to persons under 16 who fall within subsection (2)(a).
- (10) For the purpose of this section, the reporting periods are—
- (a) the period of one year beginning with the day of Royal Assent,
  - (b) each subsequent period of one year.
- (11) In subsection (2)—
- “sexual offence”—
- (a) means an offence which involves—
    - (i) an element of physical, sexual contact, or
    - (ii) the ejaculation of semen, or the emission of urine or saliva sexually, onto a person, and
  - (b) includes an act done outside Scotland which, if done in Scotland, would constitute such an offence,
- “harmful sexual behaviour” means behaviour (in Scotland or elsewhere) which—
- (a) causes or risks causing harm (whether physical or not) to another person, and
  - (b) involves—
    - (i) an element of physical, sexual contact, or
    - (ii) the ejaculation of semen, or the emission of urine or saliva sexually, onto a person,

the reference to the age of criminal responsibility is a reference to the age of criminal responsibility in Scotland (as specified in section 41 of the Criminal Procedure (Scotland) Act 1995).