



# Sexual Offences (Scotland) Act 2009

## 2009 asp 9

### PART 7

#### MISCELLANEOUS AND GENERAL

##### *Miscellaneous*

#### **[<sup>F1</sup>54B Offence committed by virtue of section 54A(1): limitations on prosecution**

- (1) Subject to section 54C, this section applies in relation to a listed offence committed by a person by virtue of section 54A(1).
- (2) Prosecution in respect of the listed offence—
  - (a) is not competent if the person has been, or is being, prosecuted in respect of the act constituting the listed offence, in the country where the act took place, and
  - (b) is competent only if—
    - (i) before the prosecution is initiated, the prosecutor has consulted the relevant director of public prosecutions about the prosecution, and
    - (ii) the person is prosecuted, on the same indictment or complaint, in respect of an act in Scotland constituting a listed offence.
- (3) For the purposes of subsection (2)(a), a person is not to be regarded as having been prosecuted in respect of the act constituting the listed offence, in the country where the act took place, if a prosecution in that country was withdrawn in order to enable the prosecution of the person in Scotland.
- (4) For the purposes of subsection (2)(b)(i)—
  - (a) the prosecution is initiated when the indictment or complaint is served,
  - (b) the relevant director of public prosecutions is—
    - (i) in the case of an act which took place in England and Wales, the Director of Public Prosecutions (that is, the head of the Crown Prosecution Service),
    - (ii) in the case of an act which took place in Northern Ireland, the Director of Public Prosecutions for Northern Ireland.
- (5) In this section, “listed offence” means an offence listed in Part 2 of schedule 4.]

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**Changes to legislation:** *There are currently no known outstanding effects for the Sexual Offences (Scotland) Act 2009, Section 54B. (See end of Document for details)*

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### **Textual Amendments**

- F1** Ss. 54A-54C inserted (24.4.2017) by [Abusive Behaviour and Sexual Harm \(Scotland\) Act 2016 \(asp 22\)](#), **ss. 8, 45(2)(3)** (with s. 44); S.S.I. 2017/93, reg. 2

**Changes to legislation:**

There are currently no known outstanding effects for the Sexual Offences (Scotland) Act 2009, Section 54B.