



Sexual Offences (Scotland) Act 2009

2009 asp 9

PART 7

MISCELLANEOUS AND GENERAL

Miscellaneous

[^{F1}54C Listed offence: limitations on prosecution if country not specified

- (1) The indictment or complaint in which a listed offence is charged need not contain information from which the country in the United Kingdom in which the act constituting the listed offence took place can be determined.
- (2) If the indictment or complaint does not contain that information, prosecution in respect of the listed offence—
 - (a) is not competent if the person charged with the offence has been, or is being, prosecuted, in respect of the act constituting the listed offence elsewhere in the United Kingdom, and
 - (b) is competent only if the conditions in subsection (3) which are applicable in the case are met.
- (3) Those conditions are—
 - (a) if it can be determined from the indictment or complaint that the act constituting the offence took place—
 - (i) either in Scotland or in England and Wales, or
 - (ii) either in Scotland or in Northern Ireland,that before the indictment or complaint was served, the prosecutor consulted the relevant director of public prosecutions about the prosecution,
 - (b) if it can be determined from the indictment or complaint that the act constituting the offence took place either in England and Wales or in Northern Ireland but not in Scotland, that—
 - (i) before the indictment or complaint was served, the prosecutor consulted both directors of public prosecutions about the prosecution, and

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- (ii) the person is prosecuted, on the same indictment or complaint, in respect of an act in Scotland constituting a listed offence,
 - (c) if neither paragraph (a) nor (b) applies, that before the indictment or complaint was served, the prosecutor consulted both directors of public prosecutions about the prosecution.
- (4) For the purposes of subsection (3)—
- (a) the relevant director of public prosecutions is—
 - (i) in relation to subsection (3)(a)(i), the Director of Public Prosecutions (that is, the head of the Crown Prosecution Service),
 - (ii) in relation to subsection (3)(a)(ii), the Director of Public Prosecutions for Northern Ireland,
 - (b) the references to both directors of public prosecutions are to the Director of Public Prosecutions and the Director of Public Prosecutions for Northern Ireland.
- (5) 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, elsewhere in the United Kingdom, if a prosecution elsewhere in the United Kingdom was withdrawn in order to enable the prosecution of the person in Scotland.
- (6) In this section, “listed offence” means an offence listed in Part 2 of schedule 4.]

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

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