



# Sexual Offences (Scotland) Act 2009

## 2009 asp 9

### PART 7

#### MISCELLANEOUS AND GENERAL

##### *Miscellaneous*

#### **55 Offences committed outside the United Kingdom [<sup>F1</sup>: child victims]**

- (1) If a UK national does an act in a country outside the United Kingdom which would, if it had been done in Scotland, constitute a listed offence then the UK national commits that offence.
- (2) If—
  - (a) a UK resident does an act in a country outside the United Kingdom which would, if it had been done in Scotland, constitute a listed offence, and
  - (b) the act constitutes an offence under the law in force in that country,then the UK resident commits the listed offence.

#### <sup>F2</sup>(2A) If—

- (a) a person who is not a UK national or a UK resident does an act in a country outside the United Kingdom which would, if it had been done in Scotland, constitute a listed offence,
  - (b) the act constitutes an offence under the law in force in that country, and
  - (c) the person meets the nationality or residence condition at the relevant time,
- proceedings may be brought against the person in Scotland for that listed offence as if the person had done the act there.
- (2B) The person meets the nationality or residence condition at the relevant time if the person is a UK national or a UK resident at the time when the indictment or complaint is served on the person.]
- (3) For the purposes of [<sup>F3</sup>subsections (2)(b) and (2A)(b)] , an act punishable under the law in force in the country is an offence under that law however it is described in that law.

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*Changes to legislation: There are currently no known outstanding effects for the Sexual Offences (Scotland) Act 2009, Section 55. (See end of Document for details)*

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- (4) The condition specified in subsection (2)(b) [<sup>F4</sup>or (2A)(b)] is to be taken as satisfied unless, not later than such time as may be prescribed by Act of Adjournal, the accused serves on the prosecutor a notice—
- (a) stating that, on the facts as alleged with respect to the act in question, the condition is not in the accused's opinion satisfied,
  - (b) setting out the grounds for the accused's opinion, and
  - (c) requiring the prosecutor to prove that the condition is satisfied.
- (5) But the court, if it thinks fit, may permit the accused to require the prosecutor to prove that the condition is satisfied without the prior service of a notice under that subsection.
- (6) In proceedings on indictment, the question whether the condition is satisfied is to be determined by the judge alone.
- (7) A person may be [<sup>F5</sup>prosecuted], tried and punished for any offence to which this section applies—
- (a) in any sheriff court district in Scotland in which the person is apprehended or is in custody, or
  - (b) in such sheriff court district as the Lord Advocate may determine, as if the offence had been committed in that district; and the offence is, for all purposes incidental to or consequential on trial or punishment, to be deemed to have been committed in that district.
- (8) In this section—
- “country” includes territory,
- “listed offence” means an offence listed in Part 2 of schedule 4,
- “sheriff court district” is to be construed in accordance with section 307(1) (interpretation) of the Criminal Procedure (Scotland) Act 1995 (c. 46),
- [<sup>F6</sup>“UK national” means an individual who was at the time the act mentioned in subsection (1) or (2A) took place—
- (a) a British citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen,
  - (b) a person who under the British Nationality Act 1981 is a British subject, or
  - (c) a British protected person within the meaning of that Act,]

“UK resident” means an individual who was at the time the act mentioned in subsection (2) [<sup>F7</sup>or (2A)] took place<sup>F8</sup> ..., resident in the United Kingdom.

#### Textual Amendments

- F1** Words in s. 55 heading inserted (29.6.2021) by [Domestic Abuse Act 2021 \(c. 17\), s. 90\(6\), Sch. 3 para. 5\(3\)](#); S.S.I. 2021/239, reg. 2
- F2** S. 55(2A)(2B) inserted (24.4.2017) by [Abusive Behaviour and Sexual Harm \(Scotland\) Act 2016 \(asp 22\), ss. 9\(2\), 45\(2\)\(3\)](#) (with s. 44); S.S.I. 2017/93, reg. 2
- F3** Words in s. 55(3) substituted (24.4.2017) by [Abusive Behaviour and Sexual Harm \(Scotland\) Act 2016 \(asp 22\), ss. 9\(3\), 45\(2\)\(3\)](#) (with s. 44); S.S.I. 2017/93, reg. 2
- F4** Words in s. 55(4) inserted (24.4.2017) by [Abusive Behaviour and Sexual Harm \(Scotland\) Act 2016 \(asp 22\), ss. 9\(4\), 45\(2\)\(3\)](#) (with s. 44); S.S.I. 2017/93, reg. 2
- F5** Word in s. 55(7) substituted (13.12.2010) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\), ss. 203, 206, Sch. 7 para. 86](#); S.S.I. 2010/413, art. 2, Sch.

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**Changes to legislation:** There are currently no known outstanding effects for the Sexual Offences (Scotland) Act 2009, Section 55. (See end of Document for details)

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- F6** Words in s. 55(8) substituted (24.4.2017) by Abusive Behaviour and Sexual Harm (Scotland) Act 2016 (asp 22), **ss. 9(5)**, 45(2)(3) (with s. 44); S.S.I. 2017/93, reg. 2
- F7** Words in s. 55(8) inserted (24.4.2017) by Abusive Behaviour and Sexual Harm (Scotland) Act 2016 (asp 22), **ss. 9(6)(a)**, 45(2)(3) (with s. 44); S.S.I. 2017/93, reg. 2
- F8** Words in s. 55(8) omitted (24.4.2017) by virtue of Abusive Behaviour and Sexual Harm (Scotland) Act 2016 (asp 22), **ss. 9(6)(b)**, 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 55.