

## SCHEDULE 1

### MODIFICATION OF ENACTMENTS

#### *Criminal Procedure (Scotland) Act 1995 (c. 46)*

- 27.—(1) The Criminal Procedure (Scotland) Act 1995 is amended as follows.
- (2) In section 19A(6)(i) (samples etc. from persons convicted of sexual and violent offences)—
- (a) in paragraph (i) of the definition of “relevant sexual offence”—
- (i) for sub paragraph (iii), substitute—
- “(iii) section 311 of the Mental Health (Care and Treatment) (Scotland) Act 2003 (non consensual sexual acts);”; and
- (ii) for sub paragraph (iv), substitute—
- “(iv) section 313 of that Act (persons providing care services: sexual offences);”; and
- (b) in the definition of “sentence of imprisonment” omit “hospital” where it first occurs and substitute “compulsion”.
- (3) In section 271(12) (evidence of vulnerable persons: special provisions) in the definition of “vulnerable person”—
- (a) in paragraph (b)(ii) for “section 1(2) of the Mental Health (Scotland) Act 1984” substitute “section 328 of the Mental Health (Care and Treatment) (Scotland) Act 2003”; and
- (b) in paragraph (b)(ii) for “transfer direction under section 71(1) of the 1984 Act” substitute “transfer for treatment direction under section 136 of the Mental Health (Care and Treatment) (Scotland) Act 2003”.
- (4) In section 274 (restrictions on evidence relating to sexual offences), in subsection (2)(g) for “106(1)(a) or 107 of the Mental Health (Scotland) Act 1984 (unlawful intercourse with mentally handicapped female or with patient)” substitute “311 (non-consensual sexual acts) or 313 (persons providing care services: sexual offences) of the Mental Health (Care and Treatment) (Scotland) Act 2003”.
- (5) In section 288C (prohibition of personal conduct of defence in cases of certain sexual offences) in subsection (2)(h), for “106(1)(a) or 107 of the Mental Health (Scotland) Act 1984 (c. 36) (unlawful sexual intercourse with mentally handicapped female or with patient)” substitute “311 (non-consensual sexual acts) or 313 (persons providing care services: sexual offences) of the Mental Health (Care and Treatment) (Scotland) Act 2003”.
- (6) In Schedule 4 (making and effect of orders), in paragraph 2—
- (a) in sub paragraph (1)(b), for “medical practitioners approved for the purposes of section 20 of the Mental Health (Scotland) Act 1984” substitute “approved medical practitioners”; and
- (b) after sub paragraph (3) insert—
- “(4) In this Schedule “approved medical practitioner” has the meaning given by section 22(4) of the [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(asp 13\)](#).”.