

## SCHEDULE

### PART 1

#### Amendment of Public General Acts

##### *The Criminal Procedure (Scotland) Act 1995*

- 1.—(1) The Criminal Procedure (Scotland) Act 1995<sup>(1)</sup> is amended as follows.
- (2) In section 19A (samples etc. from persons convicted of sexual and violent offences)<sup>(2)</sup>—
- (a) in subsection (6), in the definition of “relevant sexual offence”—
- (i) after paragraph (c) insert—
- “(ca) abduction with intent to commit the statutory offence of rape;” and
- (ii) after paragraph (d) insert—
- “(da) assault with intent to commit the statutory offence of rape;” and
- (b) after subsection (6) insert—
- “(6A) In subsection (6)—
- (a) the references to “rape” in paragraphs (c) and (d) of the definition of “relevant sexual offence” are to the offence of rape at common law; and
- (b) the references in paragraphs (ca) and (da) of that subsection to “the statutory offence of rape” are (as the case may be) to—
- (i) the offence of rape under section 1 of the Sexual Offences (Scotland) Act 2009, or
- (ii) the offence of rape of a young child under section 18 of that Act.”
- (3) In section 210A (extended sentences for sex and violent offenders)<sup>(3)</sup>—
- (a) in subsection (10), in the definition of “sexual offence”—
- (i) after paragraph (iii) insert—
- “(iiia) abduction with intent to commit the statutory offence of rape;” and
- (ii) after paragraph (iv) insert—
- “(iva) assault with intent to commit the statutory offence of rape;” and
- (b) for subsection (11) substitute—
- “(11) In subsection (10)—

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(1) 1995 c.46.

(2) Section 19A was inserted by the Crime and Punishment (Scotland) Act 1997 (c.48), section 48 and has been amended by the Criminal Justice (Scotland) Act 2003 (asp 7), section 55(3); the Mental Health (Care and Treatment) (Scotland) Act 2003 (Modification of Enactments) Order 2005 (S.S.I. 2005/465), Schedule 1, paragraph 27(2); the Police, Public Order and Criminal Justice (Scotland) Act 2006 (asp 10), section 77(4) and schedule 6, paragraph 4; and the Sexual Offences (Scotland) Act 2009, schedule 5, paragraph 2(4).

(3) Section 210A was inserted by the Crime and Disorder Act 1998 (c.37), section 86 and has been amended by the Sexual Offences (Amendment) Act 2000 (c.44), section 6(2); the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13), section 312; the Extended Sentences for Violent Offenders (Scotland) Order 2003 (S.S.I. 2003/48), article 2; the Criminal Procedure (Amendment) (Scotland) Act 2004 (asp 5), section 21; the Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6), schedule, paragraph 19; the Sexual Offences (Scotland) Act 2009, schedule 5, paragraph 2(6) and schedule 6; and, prospectively, by the Custodial Sentences and Weapons (Scotland) Act 2007 (asp 17), schedule 4, paragraph 3.

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

- (a) any reference to a “sexual offence” includes—
    - (i) a reference to any attempt, conspiracy or incitement to commit that offence; and
    - (ii) except in the case of an offence under paragraphs (i) to (viii) of the definition of “sexual offence” in that subsection, a reference to aiding and abetting, counselling or procuring the commission of that offence;
  - (b) the references to “rape” in paragraphs (iii) and (iv) of the definition of “sexual offence” are to the offence of rape at common law; and
  - (c) the references to “the statutory offence of rape” in paragraphs (iiia) and (iva) of that definition are (as the case may be) to—
    - (i) the offence of rape under section 1 of the Sexual Offences (Scotland) Act 2009, or
    - (ii) the offence of rape of a young child under section 18 of that Act.”.
- (4) In section 288C (prohibition of personal conduct of defence in cases of certain sexual offences)(4)—
- (a) in subsection (2)—
    - (i) after paragraph (d) insert—

“(da) abduction with intent to commit the statutory offence of rape;”;

and
    - (ii) after paragraph (e) insert—

“(ea) assault with intent to commit the statutory offence of rape;”;

and
  - (b) after subsection (8) insert—

“(9) In subsection (2)—

    - (a) the references to “rape” in paragraphs (d) and (e) are to the offence of rape at common law; and
    - (b) the references to “the statutory offence of rape” in paragraphs (da) and (ea) are (as the case may be) to—
      - (i) the offence of rape under section 1 of the Sexual Offences (Scotland) Act 2009, or
      - (ii) the offence of rape of a young child under section 18 of that Act.”.

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(4) Section 288C was inserted by the [Sexual Offences \(Procedure and Evidence\) \(Scotland\) Act 2002 \(asp 9\)](#), section 1 and has been amended by the [Criminal Procedure \(Amendment\) \(Scotland\) Act 2004](#), section 4(1) and schedule, paragraph 55(b); the [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Modification of Enactments\) Order 2005](#), Schedule 1, paragraph 27(5); and the [Sexual Offences \(Scotland\) Act 2009](#), schedule 5, paragraph 2(7).