

EXPLANATORY NOTE

(This note is not part of the Order)

Section 18E of the Criminal Procedure (Scotland) Act 1995 (“the 1995 Act”) provides that any relevant physical data and samples which are taken from a child under section 18(2), (6) or (6A) of the 1995 Act do not have to be destroyed for at least 3 years if that child has been referred to a children’s hearing on grounds of having committed a relevant offence and the child (and relevant adult) accept that ground of referral or the matter is referred to a sheriff who deems or finds that the ground of referral has been established.

This Order prescribes the list of relevant sexual offences and relevant violent offences that are relevant offences for the purpose of section 18E of the 1995 Act.

Article 2 prescribes the list of relevant sexual offences that are relevant offences.

Article 3 prescribes the list of relevant violent offences that are relevant offences. In relation to the offence of assault, paragraph (1)(e) provides that it is only a serious assault that will be a relevant offence. A serious assault is defined in paragraph (2) by reference to the severity of the injury that will be recorded on the ground of referral made to the children’s hearing which is either accepted by the child (and relevant adult) or deemed or found to be established by a sheriff.