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*Changes to legislation:* There are currently no known outstanding effects for the Domestic Abuse Act 2021, SCHEDULE 3. (See end of Document for details)

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## SCHEDULES

### SCHEDULE 3

Section 74

#### AMENDMENTS RELATING TO OFFENCES COMMITTED OUTSIDE THE UK

#### PART 1

##### ENGLAND AND WALES

##### *Protection from Harassment Act 1997*

1 In the Protection from Harassment Act 1997, after section 4A insert—

**“4B Offences under sections 4 and 4A committed outside the United Kingdom**

**“4B “4B Offences under sections 4 and 4A committed outside the United Kingdom**

(1) If—

- (a) a person's course of conduct consists of or includes conduct in a country outside the United Kingdom,
- (b) the course of conduct would constitute an offence under section 4 or 4A if it occurred in England and Wales, and
- (c) the person is a United Kingdom national or is habitually resident in England and Wales,

the person is guilty in England and Wales of that offence.

(2) In this section—

“country” includes territory;

“United Kingdom national” means an individual who is—

- (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.”

##### *Sexual Offences Act 2003*

2 (1) The Sexual Offences Act 2003 is amended as follows.

(2) In section 72 (offences outside the United Kingdom)—

- (a) in subsections (1)(b) and (2)(c), for “section” substitute “ subsection ”;
- (b) in subsection (3)(c), for “section” substitute “ subsection ”;
- (c) in subsection (10), for “this section applies” substitute “ subsections (1) to (3) apply ”.

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- (3) In Schedule 2 (sexual offences to which section 72 applies)—
- (a) in the heading, for “section 72” substitute “ section 72(1) to (3) ”;
  - (b) in paragraph 1, in the opening words, for “section 72 applies” substitute “ subsections (1), (2) and (3) of section 72 apply ”;
  - (c) after paragraph 1 insert—
 

“1A In relation to England and Wales, subsections (1) and (2) of section 72 also apply to an offence under any of sections 1 to 4 where the victim of the offence was 18 or over at the time of the offence.”;
  - (d) in paragraph 3, after “paragraph 1” insert “ or 1A ”.

*Serious Crime Act 2015*

- 3 In the Serious Crime Act 2015, after section 76 (controlling or coercive behaviour in an intimate or family relationship) insert—

**“76A Offences under section 76 committed outside the United Kingdom**

**“76A “76A Offences under section 76 committed outside the United Kingdom**

- (1) If—
- (a) a person's behaviour consists of or includes behaviour in a country outside the United Kingdom,
  - (b) the behaviour would constitute an offence under section 76 if it occurred in England and Wales, and
  - (c) the person is a United Kingdom national or is habitually resident in England and Wales,
- the person is guilty in England and Wales of that offence.

- (2) In this section—
- “country” includes territory;
- “United Kingdom national” means an individual who is—
- (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.”

**PART 2**

SCOTLAND

*Criminal Procedure (Scotland) Act 1995*

- 4 (1) Section 11 of the Criminal Procedure (Scotland) Act 1995 (certain offences committed outside Scotland) is amended as follows.
- (2) In subsections (1) and (2), for “British citizen or British subject” substitute “ relevant person ”.
- (3) After subsection (2) insert—

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- “(2A) Any relevant person who in a country outside the United Kingdom does any act which—
- (a) constitutes an offence under the law in force in that country, and
  - (b) if done in Scotland would constitute the crime of assault,
- is guilty of the same crime and subject to the same punishment as if the act had been done in Scotland.
- (2B) For the purposes of subsection (2A)(a), an act punishable under the law in force in the country is an offence under that law however it is described in that law.
- (2C) The condition specified in subsection (2A)(a) 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.
- (2D) 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 subsection (2C).
- (2E) In proceedings on indictment, the question whether the condition is satisfied is to be determined by the judge alone.
- (2F) For the purposes of subsections (1) to (2B)—
- “country” includes territory;
  - “relevant person” means a person who is a United Kingdom national or is habitually resident in Scotland;
  - “United Kingdom national” means an individual who is—
- (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.”

#### Commencement Information

**II** Sch. 3 para. 4 in force at 29.6.2021 by S.S.I. 2021/239, reg. 2

#### *Sexual Offences (Scotland) Act 2009 (asp 9)*

- 5 (1) The Sexual Offences (Scotland) Act 2009 is amended as follows.
- (2) After section 54C insert—

**“54D Offences committed outside the United Kingdom: adult victims**

**“54D “54D Offences committed outside the United Kingdom: adult victims**

- (1) If—

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- (a) a person who is a UK national does an act in a country outside the United Kingdom, and
  - (b) the act, if done in Scotland, would constitute an offence to which this subsection applies,
- then the person commits that offence.
- (2) If—
- (a) a person who is habitually resident in Scotland does an act in a country outside the United Kingdom,
  - (b) the act constitutes an offence under the law in force in that country, and
  - (c) the act, if done in Scotland, would constitute an offence to which this subsection applies,
- then the person commits that offence.
- (3) The offences to which subsections (1) and (2) apply are offences under any of sections 1 to 4 where the victim of the offence was 18 or over at the time of the offence.
- (4) For the purposes of subsection (2)(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.
- (5) The condition specified in subsection (2)(b) is to be taken as satisfied unless, not later than such time as may be prescribed by Act of Adjournment, 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.
- (6) 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 subsection (5).
- (7) In proceedings on indictment, the question whether the condition is satisfied is to be determined by the judge alone.
- (8) A person may be prosecuted, tried and punished for an offence by virtue of this section—
- (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.
- (9) In this section—
- “country” includes territory;
  - “sheriff court district” is to be construed in accordance with section 307(1) of the Criminal Procedure (Scotland) Act 1995 (interpretation);
  - “UK national” means an individual who is—

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- (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.”
- (3) In the heading of section 55, at the end insert “ : child victims ”.
- (4) For the heading of section 56 substitute “ Section 55: continuity of law ”.

#### Commencement Information

I2 Sch. 3 para. 5 in force at 29.6.2021 by S.S.I. 2021/239, reg. 2

#### *Criminal Justice and Licensing (Scotland) Act 2010 (asp 13)*

6 In the Criminal Justice and Licensing (Scotland) Act 2010, after section 39 insert—

#### **“39A Offence of stalking committed outside the United Kingdom**

#### **“39A “39A Offence of stalking committed outside the United Kingdom**

- (1) If—
- (a) a person's course of conduct consists of or includes conduct in a country outside the United Kingdom,
  - (b) the course of conduct would constitute the offence of stalking if it occurred in Scotland, and
  - (c) the person is a United Kingdom national or is habitually resident in Scotland,
- then the person commits that offence.
- (2) If a person's course of conduct consists entirely of conduct in a country outside the United Kingdom—
- (a) the person may be prosecuted, tried and punished for an offence of stalking by virtue of this section—
    - (i) in any sheriff court district in Scotland in which the person is apprehended or is in custody, or
    - (ii) in such sheriff court district as the Lord Advocate may determine,as if the offence had been committed entirely in that district, and
  - (b) the offence is, for all purposes incidental to or consequential on trial or punishment, to be deemed to have been committed entirely in that district.
- (3) In this section—
- “country” includes territory;
  - “sheriff court district” is to be construed in accordance with section 307(1) of the Criminal Procedure (Scotland) Act 1995 (interpretation);
  - “United Kingdom national” means an individual who is—

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- (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.”

**Commencement Information**

**I3** Sch. 3 para. 6 in force at 29.6.2021 by S.I. 2021/239, reg. 2

PROSPECTIVE

**PART 3**

NORTHERN IRELAND

*Protection from Harassment (Northern Ireland) Order 1997 (S.I. 1997/1180 (N.I. 9))*

7 In the Protection from Harassment (Northern Ireland) Order 1997, after Article 6 insert—

*“Offences under Article 6 committed outside the United Kingdom*

6A (1) If—

- (a) a person's course of conduct consists of or includes conduct in a country outside the United Kingdom,
- (b) the course of conduct would constitute an offence under Article 6 if it occurred in Northern Ireland, and
- (c) the person is a United Kingdom national or is resident in Northern Ireland,

the person is guilty in Northern Ireland of that offence.

(2) In this Article—

“country” includes territory;

“United Kingdom national” means an individual who is—

- (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.”

*Sexual Offences (Northern Ireland) Order 2008 (S.I. 2008/1769 (N.I. 2))*

8 In Article 76 of the Sexual Offences (Northern Ireland) Order 2008 (offences outside the United Kingdom)—

- (a) in paragraphs (1)(b) and (2)(c), for “Article” substitute “ paragraph ”;
- (b) in paragraph (3)(c), for “Article” substitute “ paragraph ”;

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- (c) in paragraph (10), for “this Article applies” substitute “ paragraphs (1), (2) and (3) apply ”;
- (d) after paragraph (10) insert—
  - “(10A) Paragraphs (1) and (2) also apply to an offence under any provision of Part 2 where the victim of the offence was 18 or over at the time of the offence.”;
- (e) in paragraphs (11) and (12), after “paragraph (10)” insert “ or (10A) ”.

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