



Health and Care Act 2022

2022 CHAPTER 31

PART 5

VIRGINITY TESTING AND HYMENOPLASTY OFFENCES

CHAPTER 1

VIRGINITY TESTING OFFENCES

Virginity testing offences: Scotland

140 Offence of virginity testing: Scotland

- (1) It is an offence under the law of Scotland for a person to carry out virginity testing.
- (2) “Virginity testing” means the examination of female genitalia, with or without consent, for the purpose (or purported purpose) of determining virginity.
- (3) An offence is committed under subsection (1) only if the person—
 - (a) is in Scotland, or
 - (b) is outside the United Kingdom, and is a United Kingdom national or habitually resident in Scotland.
- (4) “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.
- (5) In subsection (2), “female genitalia” means a vagina or vulva.

Status: This is the original version (as it was originally enacted).

141 Offence of offering to carry out virginity testing: Scotland

- (1) It is an offence under the law of Scotland—
 - (a) for a person in Scotland to offer to carry out virginity testing in the United Kingdom or virginity testing that has a sufficient jurisdictional connection, or
 - (b) for a person anywhere to offer to carry out virginity testing if the person is a United Kingdom national or habitually resident in Scotland.
- (2) Virginity testing has a sufficient jurisdictional connection for the purposes of subsection (1)(a) if it is carried out in relation to a person who is—
 - (a) a United Kingdom national, or
 - (b) habitually resident in the United Kingdom.
- (3) In this section—

“United Kingdom national” has the meaning given by section 140(4);
“virginity testing” has the meaning given by section 140(2).

142 Offence of aiding or abetting etc a person to carry out virginity testing: Scotland

- (1) It is an offence under the law of Scotland for a person who is in Scotland, or for a person who is outside Scotland but who is a United Kingdom national or habitually resident in Scotland, to aid, abet, counsel, procure or incite the carrying out of virginity testing that has a sufficient jurisdictional connection.
- (2) Virginity testing has a sufficient jurisdictional connection for the purposes of subsection (1) if it is carried out in relation to a person who is—
 - (a) in the United Kingdom,
 - (b) a United Kingdom national, or
 - (c) habitually resident in the United Kingdom.
- (3) This section does not affect the application to an offence under section 140 of any rule of law relating to aiding, abetting, counselling, procuring or inciting.
- (4) In this section—

“United Kingdom national” has the meaning given by section 140(4);
“virginity testing” has the meaning given by section 140(2).

143 Virginity testing offences in Scotland: penalties and supplementary

- (1) A person who commits an offence under section 140, 141 or 142 is liable—
 - (a) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum (or both);
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 5 years or a fine (or both).
- (2) Where a person outside Scotland commits an offence under section 140, 142 or 143 the person may be prosecuted, tried and punished for the offence—
 - (a) in a sheriff court district in which the person is apprehended or in custody, or
 - (b) in a sheriff court district determined by the Lord Advocate,as if the offence had been committed in that district.

Status: This is the original version (as it was originally enacted).

- (3) Where subsection (2) applies, the offence is, for all purposes incidental to or consequential on the trial and punishment, deemed to have been committed in that district.
- (4) In this section “sheriff court district” is to be construed in accordance with section 307(1) of the Criminal Procedure (Scotland) Act 1995 (interpretation).