

Laws keep us safe – Let us keep you safe

Welcome to Scotland

A Guide to Scots Law

A collaborative project with
HND Legal Services students from New College Lanarkshire,
Crown Office and Procurator Fiscal Service
and Police Scotland.



CROWN OFFICE
& PROCURATOR
FISCAL SERVICE

SCOTLAND'S PROSECUTION SERVICE



**POLICE
SCOTLAND**
keeping people safe

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We would also like to thank the refugee community in Scotland for their support and help in producing this booklet.

We welcome you to our country and wish you all the best with your new life in Scotland.

Foreword

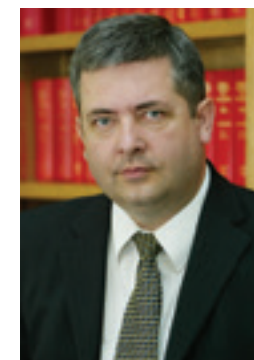
I am delighted to endorse this booklet which has been prepared by the HND Legal Services students of New College Lanarkshire (Motherwell Campus) to provide guidance to those coming to live in Scotland.

This project is close to my heart and arose as a result of a chance encounter with the students and staff who had attended court to watch a trial which I was prosecuting. I spoke to the students during a break in the trial and that conversation gave birth to the idea for this booklet. Since then I have been consistently encouraged and impressed with the enthusiasm they have shown in putting this together. Rather than being a dry, formal piece of guidance issued by civil servants, it is a practical, plain-English document prepared by down-to-earth Scots folk giving sensible, practical advice on Scotland and its laws to those coming to our country for the first time.

Adjusting to life in a new country can be an anxious and confusing experience and guidance on the customs and laws of the land is not always easily available. This guide is an example of the good work being done throughout Scotland to eliminate discrimination and to foster inclusivity of all people whether they have been here for years or have just arrived in the last few days. The students and staff are to be commended for all their hard work in preparing this guide.

The Rt Hon. Frank Mulholland QC

Lord Advocate



Contents

Family.....	6	The Law at Work.....	18
Marriage.....	6	Victims of Crime - Criminal	
Divorce	6	Offences in Scotland	20
Parental Responsibilities	6	Assault	21
Domestic Abuse.....	7	Firearms.....	21
Pregnancy & Abortion.....	8	Weapons	21
Honour Based Violence	8	Sexual Offences	22
Female Genital Mutilation.....	8	Prostitution.....	22
The Law at Home	10	Hate Crime	23
Alcohol	10	Human Trafficking	24
Smoking	10	Drugs	24
Television Licence.....	10	Money Laundering.....	24
Money Lending.....	10	Theft	25
The Law on the Street	12	Social Media	25
Anti-Social Behaviour	12	Animal cruelty	25
Public Order.....	12	Support for	
Littering.....	13	Victims of Crime:.....	26
Public Indecency	13	Legal Disclaimer	28
Stop and Search.....	13		
Using Pavements	13		
The Law for			
Motor Vehicles	15		

Family



Family

Marriage

Anyone aged 16 years or over can get married. This includes both opposite sex couples and same sex couples.

It is illegal to be married to more than one person at the same time.

Divorce

If you no longer wish to be married you can get a divorce under certain circumstances. These circumstances include adultery, unreasonable behaviour or where you have been living apart for a period of time.

Parental Responsibilities

You must be responsible and keep your child safe. A parent must not leave their child alone and unsupervised at home or anywhere else at any time. A child under the age of 16 should never be left home alone overnight.

You may be prosecuted if you hit your child or a child who is in your care. In particular, if you strike your child on the head, shake them or hit them using anything, then you would be breaking the law. Hitting your child is both physically and mentally damaging to a child and could affect them later in life.

You must send your child to school from age 5: it is the law and failure to do so is a criminal offence. If a child does not attend school on a regular basis, the parents may be prosecuted. This will depend on the level of attendance and the circumstances at home.

Domestic Abuse

Domestic abuse is where one person harms another person with whom they have (or have had) some sort of relationship. They do not need to be heterosexual partners and they do not need to live in the same property. Both women and men can experience domestic abuse. This includes female violence towards men and violence between partners or ex-partners in same-sex relationships.

The range of offences which might be classified as domestic abuse is wide and can include physical, sexual, emotional or mental abuse. The police will treat all incidents of domestic abuse as high priority. They will ensure that, as far as possible, any incident reported is met with an immediate response by police officers. The initial priority for police officers attending a domestic abuse incident is the safety and well-being of the victim, their family and any other persons present.

Where there is enough evidence, the person responsible will be charged and may be detained in custody to appear at court.



Pregnancy & Abortion

Information on pregnancy can be found on www.readysteadybaby.org.uk or you can contact the NHS directly by phoning 111.

If you decide not to continue with your pregnancy and are considering an abortion or termination you must seek medical advice immediately.

Honour Based Violence

Honour based violence is a term to describe a crime or incident, which has, or may have, been committed to protect or defend the perceived honour of the family and/or community. It is mainly, but not always, carried out against women and girls, by their family or their community.

Those who carry out 'honour crimes' often do so because they believe that the victim(s) have done something to bring shame to the family or the community. The police will treat every report of honour based violence seriously and will conduct a thorough investigation.

Forced marriage is a form of honour based violence and it is a criminal offence in Scotland to force or attempt to force someone into marriage

Female Genital Mutilation (FGM)

Female genital mutilation (sometimes referred to as 'cutting' or 'female circumcision') refers to certain procedures that can alter or cause injury to the female genital organs for non-medical reasons. The practice is extremely painful and can cause serious health issues, both when the procedure is carried out and in later life. The practice is illegal in the UK. It is also illegal to arrange for FGM to be carried out abroad.

The Law at Home



The Law at Home

Alcohol

Alcohol can only be sold on licensed premises in Scotland and the United Kingdom and can only be bought by persons aged 18 or over.

It is an offence to buy or attempt to buy alcohol for a person under the age of 18. It is an offence to sell alcohol to a person under the age of 18.

You can prove that you are over 18 and able to buy alcohol by showing certain official documents, for example, a national identity card or passport or a driving licence.

Smoking

You must be over 18 years old to purchase cigarettes and other tobacco products. Tobacco products include cigarettes, cigars, hand-rolling tobacco, e-cigarettes and chewing tobacco.

It is illegal to smoke in many public places and all places of work or to buy tobacco products for anyone under the age of 18 years old.

You should only buy tobacco products from a shop.

Television Licence

If you have a television in your house to record or watch television programmes as they are being shown on live TV, then you must have a licence for it. You do not need a TV licence if a TV set cannot receive TV programmes and is used for watching DVDs or to play computer games.

Money Lending

You should only borrow money from an approved lender.

The Law on the Street



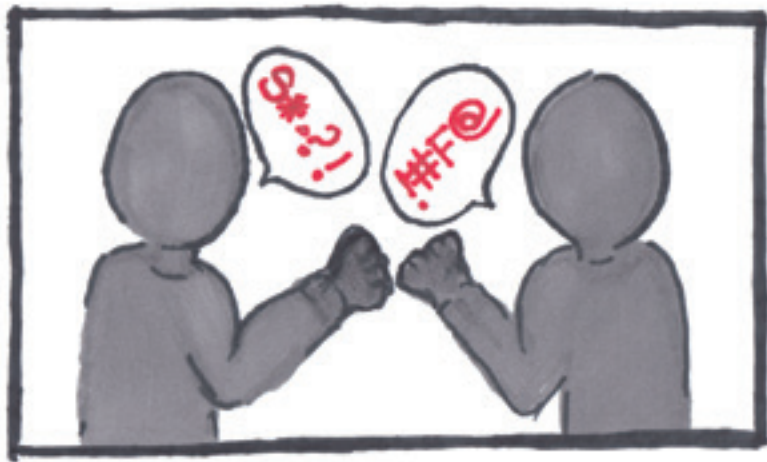
The Law on the Street

Anti-Social Behaviour

Is acting in a way that causes or is likely to cause alarm or distress to other people

Anti-social behaviour can include:-

- Noise
- Rowdy behaviour such as shouting, swearing and fighting
- Threatening neighbours and others
- Verbal abuse
- Abusive behaviour aimed at causing distress or fear to other people, for example, elderly or disabled people
- Dumping articles of household waste in the street, common closes and gardens.
- Property damage



Public Order

You should not take part in the following activities in public places:

- Drinking alcohol in the street or any public place: drinking in the street is illegal in many places
- Gathering in large groups/crowds: this may be seen as threatening and should be avoided if possible.
- Shouting, screaming and cursing in public
- Threatening or abusive behaviour towards others

Behaving in these ways is likely to lead to you being arrested by the police and charged with criminal offences.

If you are arrested, you should co-operate with the police officers.

Littering

You may be given a fixed penalty fine for dropping litter and if you fail to pay that, you may have to pay an increased penalty. Dumping large amounts of waste is deemed a more serious matter and you may have to pay much heavier fines if convicted of this.

Public Indecency

Behaviour which would be lawful if carried out in private can become criminal if committed in public and seen by other members of the public. Sexual behaviour which takes place in a public place or the showing of private body parts in a public place is a crime.

Stop and Search

A police officer can search you if they suspect that you have items you should not have such as drugs, weapons or stolen goods with you.

Using Pavements

For safety reasons you are advised to use footpaths that are provided. You should cross at traffic lights where these are available. You may walk alongside any road in Scotland except motorways.

The Law for Motor Vehicles



The Law for Motor Vehicles

Road traffic offences are things such as:

- Failure to stop after an accident
- Speeding
- Driving whilst under the effect of drink or drugs
- Causing death by careless or dangerous driving
- Dangerous driving
- Driving whilst using a mobile phone
- Careless driving
- Driving without motor insurance
- Driving without a licence or whilst being disqualified
- Driving through a red light
- Driving without use of a seatbelt
- Driving without an MOT
- Driving with defects to your vehicle

If you commit any of these offences you may receive a fine, penalty points, be banned from driving, or go to prison depending on how serious the offence is.

Penalty points are marks that are kept on your licence for a period of years depending on how serious the offence was. If you receive more than 12 points within a 3 year period then you will be disqualified for a minimum of 6 months. If you have passed your test within the last two years you can be disqualified from driving with only 6 penalty points on your license.

If you wish to drive a motor vehicle in Scotland you will need the following:

- **A valid licence:** to drive legally in Scotland or anywhere in the UK you must be at least 17 years old and you must pass a theory and practical driving test. If you come to Scotland with a foreign licence you are able to use that licence for 12 months as long as it is still valid in the country it was issued in. After 12 months, you may have to sit a full UK driving test to continue driving on the UK.
- **Road Tax:** It is illegal to drive without having taxed your vehicle.
- **Insurance:** Driving a vehicle without motor insurance is against the law. You must check your insurance policy to make sure that you or anyone else using the vehicle is insured to do so.
- **MOT:** An MOT is a certificate which certifies your vehicle is fit for the road. It is illegal to drive without an MOT.

The drink drive limit in Scotland is 22 microgrammes of alcohol in 100ml of breath. You may be over the limit after less than one drink. You may still be over the limit the day after drinking more heavily. In Scotland, most people do not drink alcohol at all if they are driving that day and limit their intake if they are driving the next day.

All tyres on your car must be fit for purpose. The tread depth on a tyre must not fall below the legal amount which, for cars, is 1.6mm.



The Law at Work



The Law at Work

Employment is generally defined as an agreement where the employer will pay the employee to carry out work for them. This agreement can be made in writing or verbally.

Your rights at work are:

- A written statement of terms of employment within 2 months of your start date.
- The right to receive pay slips with every wage earned.
- The right to be paid the national minimum wage.
- The right not to have any illegal deductions made from your wage.
- The right to holiday pay, which is 28 days a year for full-time employees. Part-time employees are entitled to a pro rata amount.
- The right to paid maternity leave for women and the woman's partner would be entitled to paternity leave.
- The right not to be discriminated against.
- If you are dismissed, you have the right to a written explanation of why you are losing your job from your employer if you have worked there for two years. However, women who are pregnant or on maternity leave have the right to a written reason, no matter how long they have worked there.
- If you are unfairly dismissed you have the right to claim compensation as long as you have worked there for two years.
- Part-time workers have the same rights as full-time workers.

If you are unsure about whether any of these apply to you, you can contact:

- Citizens Advice Bureau through their website www.cas.org.uk or call your local Bureau in your area
- The Advisory, Conciliation and Arbitration Service also known as (ACAS) through their website www.acas.org.uk or call 0300 123 1100.

Victims of Crime

Criminal Offences in Scotland



Victims of Crime

Anyone can be a victim of crime - it does not matter what age, race or gender you are. A victim is anyone who has been harmed by a crime, whether physically, emotionally or financially.

If you have become a victim of crime you should not be scared to tell someone: the sooner you tell someone, the sooner you can stop what is happening to you and so you can receive help. This can range from telling a family member, friend speaking to the police.

As a victim of crime you have rights, including the right to information about your case and to support. You should be treated fairly and with respect by everyone working on the case, including if the case comes to court.

If you have been affected by crime in Scotland, or you know someone who has, there are many different organisations that can give help, support and advice, some of which are free to phone. Most are confidential. They can help you regain confidence and make you feel more comfortable in your day-to-day life. Some of these organisations are listed at the back of this booklet.

Criminal Offences in Scotland

Assault

An assault is an attack upon the person of another. It will normally take the form of a physical attack. The attack does not need to cause injury for it to be seen as an assault in law. An assault can be carried out using hands and feet or weapons such as sticks, bricks or knives. It is also classed as assault if someone spits on you or threatens to set their dog on you.

Aggravated assault makes the crime more serious. Assault can be aggravated in several ways, for example, by the use of a weapon; if the victim was elderly or a child; or if the victim was assaulted in their own home.

Firearms

Scotland does not have a "gun culture". In Scotland you are allowed only to possess a gun if you have a licence. Possession of a gun without a licence is a very serious offence and could result in a prison sentence.

Weapons

Weapons are objects that can cause harm and include items such as knives and firearms.

You should never carry weapons, particularly knives, in public places. The maximum penalty for possession of a knife is 5 years in prison.

If you take part in an assault and someone dies from being attacked by a knife, you could be sentenced to life imprisonment. This might be the case even if you were not the person who used the knife but you knew that another person involved in the assault had a knife and might use it during the assault.



Sexual Offences

Rape occurs where someone has sex with another without their consent. Anyone can be raped. It does not matter what gender, age or what colour of skin you have. Rape can occur between strangers, friends or family and can occur within a relationship and/or marriage.

The age of consent for sexual activity in Scotland is 16 years old.

It is an offence to cause another person to engage in sexual activity without their consent.

It is an offence for any person, male or female, to sexually assault another person.

If you have been a victim of a sexual offence you can get help and advice from the agencies below:

- **Rape Crisis Scotland** – 08088 010 302
- **Victim Support Scotland** – 0345 603 9213
- **Police Scotland** – 101 (non-emergency) 999 (emergency)

Prostitution

Prostitution is seen as the business or practice of engaging in sexual relations in exchange for payment or some other benefit. Both those engaged in prostitution and those seeking to purchase sex may be liable to prosecution.

Hate Crime

“Hate crime” is a crime committed against a person or property that is motivated by anger or hatred towards certain protected groups.

You are a victim of a hate crime if you believe that someone has targeted you because of your:

- Race
- Religion
- Sexual orientation
- Transgender identity
- Disability

Hate crime can take a number of forms, including, but not limited to:

- Murder
- Physical assault
- Damage to property e.g. graffiti, arson, vandalism
- Intimidating or threatening behaviour including obscene calls or gestures
- Offensive letters, leaflets, posters
- Verbal abuse or insults including name-calling
- Online bullying and abuse

You can report a non-emergency incident to the police:

- By calling **999** in an emergency or **101** for less urgent situations
- Through the on-line, hate crime reporting form on the Police Scotland website or through a Third Party Reporting Site.
<http://www.scotland.police.uk/contact-us/hate-crime-and-third-party-reporting/>



Human Trafficking

Human trafficking is a criminal business and is often linked with other organised criminal activity such as prostitution, drug abuse and money laundering. Trafficked people may be vulnerable to exploitation because of their immigration status and economic situation and may be subjected to threats and violence.

If you believe you have been a victim of trafficking contact the police or the Trafficking Awareness Raising Alliance (TARA) on 0141 276 7724.

Drugs

Taking drugs can seriously affect your health and may result in death.

There are two types of drugs controlled by law: ones which are always illegal (e.g. cannabis, heroin, ecstasy, cocaine, khat etc.) and ones which are illegal unless you have a valid prescription from a doctor or dentist (e.g. morphine, methadone etc.).

It is illegal to possess controlled drugs or to supply controlled drugs to someone else. You may be sent to prison if you supply drugs.

It is illegal to grow cannabis plants yourself or to look after someone else's cannabis plants

It is illegal to be involved in making controlled drugs.

New Psychoactive Substances which are also known as "legal highs" are very dangerous and you should not take them. If you supply them to another person, you may be breaking the law.



Money Laundering

Having and using money obtained from criminal activity is a crime.

Theft

Theft is a criminal act where property belonging to another is taken wrongfully and without consent. Examples of this are:

- Stealing from a shop (Shoplifting)
- Breaking into a house (Housebreaking)
- Removing goods from someone's garden
- Car theft



If you are in possession of any goods that you know are or have reasonable belief are stolen then this also is a crime and is known as reset. Theft by finding is also an offence under Scots Law.

Social Media

Social media crimes include sending offensive, threatening or abusive messages and/or images to another person via Twitter, Facebook or any other social media outlet. These could be classed as harmful communications, harassment offences or, sometimes, hate crimes.

You can report any of these matters to the police as well as reporting them to the social media sites. They can take action against the offender by either removing the offensive message or by closing the offender's account.

Animal cruelty

It is an offence to cause an animal suffering or harm.

If you own an animal you must:

- Provide a comfortable and clean environment
- Provide clean and fresh bedding regularly
- Provide suitable food and water
- Provide treatment for a sick or injured animal

Support for Victims of Crime:

Police Scotland

Telephone: 999 (emergency)

Telephone: 101 (non-emergency)

Website: www.scotland.police.uk

Scottish Refugee Council

Telephone: 0141 248 9799

Website: www.scottishrefugeecouncil.org.uk

Victim Support Scotland

Telephone: 0345 603 9213 or 0808 16 89 111

Mon-Fri 8am-8pm

Website: www.victimsupportsco.org.uk

Rape Crisis Scotland

Telephone: 08088 01 03 02

Website: www.rapecrisisscotland.org.uk

Offers free, confidential support to anyone who has experienced any form of sexual violence at any time in their lives. The National Office, 0141 331 4180, can refer you to support available through your local Rape Crisis Centre.

Scottish Women's Aid

Telephone: 0131 226 6606

Website: www.scottishwomensaid.org.uk

Provides information, support and safe refuge for women who have experienced or are experiencing domestic abuse. All groups have children's support workers who provide support to children and young people.

Childline Scotland

Telephone: 0800 1111 (open 24 hours a day, 7 days a week)

Website: www.childline.org.uk

Offers support and advice to children.

Citizens Advice Bureau

Website: www.cas.org.uk

Advice about your rights. This website will give you details about how to contact your local Citizens Advice Bureau.

The Samaritans

Telephone: 08457 909090

Website: www.samaritans.org

A source of help for people in need.

Scottish Domestic Abuse Helpline

Telephone: 0800 027 1234 (24 hour line)

Website: www.sdah.org.uk

Provides confidential information and support to those affected by domestic abuse. This free phone number does not appear on itemised phone bills.

Shelter

Telephone: 0808 800 4444

Website: scotland.shelter.org.uk

Provides information about general housing matters and emergency access to refuge services.





For more information on Scottish law visit:
www.nclanarkshire.ac.uk/scotslaw

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Legal Disclaimer

The information enclosed in this booklet is to be used as a general guide only and it is not a detailed statement of the law. Scotland has its own independent legal system and laws in Scotland may often be different from other parts of the UK. If you require legal advice you must always contact a solicitor or the Citizens Advice Bureau in Scotland.

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