



# Criminal Justice and Licensing (Scotland) Act 2010

2010 asp 13

## PART 3

### CRIMINAL PROCEDURE

#### *Prosecution on indictment*

#### **60 Prosecution on indictment: Scottish Law Officers**

- (1) The 1995 Act is amended as follows.
- (2) In section 64 (prosecution on indictment), in subsection (1), for “in name” substitute “ at the instance ”.
- (3) The title of section 287 becomes “Demission from office of Lord Advocate and Solicitor General for Scotland”.
- (4) In that section—
  - (a) in subsection (1)—
    - (i) for “by a Lord Advocate” substitute “ at the instance of Her Majesty's Advocate ”,
    - (ii) for “his” where it first occurs substitute “ the holder of the office of Lord Advocate ”, and
    - (iii) after “successor” insert “ or the Solicitor General ”,
  - (b) in subsection (2)—
    - (i) for “in name of” substitute “ at the instance of Her Majesty's Advocate or ”, and
    - (ii) the words “then in office” are repealed,
  - (c) after subsection (2), insert—

“(2A) Any such indictments in proceedings at the instance of the Solicitor General may be signed by the Solicitor General.

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**Changes to legislation:** *There are currently no known outstanding effects for the Criminal Justice and Licensing (Scotland) Act 2010, Cross Heading: Prosecution on indictment. (See end of Document for details)*

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- (2B) All indictments which have been raised at the instance of the Solicitor General shall remain effective notwithstanding the holder of the office of Solicitor General subsequently having died or demitted office and may be taken up and proceeded with by his successor or the Lord Advocate.
- (2C) Subsection (2D) applies during any period when the offices of Lord Advocate and Solicitor General are both vacant.
- (2D) It is lawful to indict accused persons at the instance of Her Majesty's Advocate.”, and
- (d) in subsection (4)—
- (i) after “Advocate” insert “ or Solicitor General ”,
  - (ii) in paragraph (a), after “subsection (1)” insert “ or (2B) ”,
  - (iii) in paragraph (b), for “in the name” substitute “ raised at the instance ”, and
  - (iv) after that paragraph, insert—
    - “(c) by virtue of subsection (2D) above, is raised at the instance of Her Majesty's Advocate”.
- (5) In Schedule 2, the words “A.F.R. (*name of Lord Advocate*),” are repealed.

**Commencement Information**

**II** S. 60 in force at 13.12.2010 by S.S.I. 2010/413, art. 2, Sch. (with art. 5)

**Changes to legislation:**

There are currently no known outstanding effects for the Criminal Justice and Licensing (Scotland) Act 2010, Cross Heading: Prosecution on indictment.