



Double Jeopardy (Scotland) Act 2011

2011 asp 16

Double jeopardy

1 Rule against double jeopardy

- (1) It is not competent to charge a person who, whether on indictment or complaint (the “original indictment or complaint”), has been convicted or acquitted of an offence (the “original offence”) with—
 - (a) the original offence,
 - (b) any other offence of which it would have been competent to convict the person on the original indictment or complaint, or
 - (c) an offence which—
 - (i) arises out of the same, or largely the same, acts or omissions as gave rise to the original indictment or complaint, and
 - (ii) is an aggravated way of committing the original offence.
- (2) Subsection (1) is subject to sections 2, 3 and 4 and is without prejudice to sections 107E(3) (prosecutor’s appeal against acquittal: authorisation of new prosecution), 118(1)(c) (disposal of appeals), 119 (provision where High Court authorises new prosecution), 183(1)(d) (stated case: disposal of appeal) and 185 (authorisation of new prosecution) of the 1995 Act.
- (3) In this Act, references to a person being “convicted” of an offence are references to—
 - (a) the person being found guilty of the offence,
 - (b) the prosecutor accepting the person’s plea of guilty to the offence, or
 - (c) the court making an order under section 246(3) of the 1995 Act discharging the person absolutely in relation to the offence,and related expressions are to be construed accordingly.
- (4) For the purposes of subsection (3)—
 - (a) section 247(1) (conviction of person placed on probation or absolutely discharged deemed not to be a conviction) of the 1995 Act does not apply, and
 - (b) it is immaterial whether or not sentence is passed.