

DOUBLE JEOPARDY (SCOTLAND) ACT 2011

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Plea in bar of trial

Section 10 Plea in bar of trial: previous foreign proceedings

56. This section applies where a plea in bar of trial is taken under section 7(2) where the accused was originally tried in a jurisdiction outwith the United Kingdom.
57. The general rule is that, for the purpose of the plea in bar, it does not matter whether the original trial took place in Scotland or elsewhere. However, if the person was originally tried outwith the United Kingdom, section 10 means that the court may disregard a conviction or acquittal where it determines that there is a sufficient special reason and it would be in the interests of justice to do so. Subsection (2) provides particular factors for the court to consider in determining whether it is in the interests of justice to permit a trial to proceed.
58. Subsections (3) and (4) provide that the court is prevented from disregarding a non-UK verdict where trying the accused would be inconsistent with the UK's obligations under Article 54 of the Schengen Convention; that is, where a charge relating to the same acts has been finally determined in another State to which Article 54 of that Convention applies.