



# Double Jeopardy (Scotland) Act 2011

## 2011 asp 16

### *Plea in bar of trial*

#### **10 Plea in bar of trial: previous foreign proceedings**

- (1) This section applies where the previous trial averred under section 7(2) took place outwith the United Kingdom.
- (2) In determining under section 7(4)(b) whether it is in the interests of justice for the case to proceed to trial, the court is in particular to have regard to—
  - (a) whether the purpose of bringing the person to trial in the foreign country appears to have been to assist the person to evade justice,
  - (b) whether the proceedings in the foreign country appear to have been conducted—
    - (i) independently and impartially, and
    - (ii) in a manner consistent with dealing justly with the person,
  - (c) whether such sentence (or other disposal) as was or might have been imposed in the foreign country for the offence of the kind of which the person has been convicted or acquitted is commensurate with any that might be imposed for an offence of that kind in Scotland, and
  - (d) the extent to which the acts or omissions can be considered to have occurred in, respectively—
    - (i) Scotland,
    - (ii) the foreign country.
- (3) But the court may not repel the plea if permitting the case to proceed to trial would be inconsistent with the obligations of the United Kingdom under Article 54 of the Schengen Convention.
- (4) In subsection (3), the “Schengen Convention” means the Convention of 19 June 1990 implementing the Schengen Agreement of 14 June 1985.

#### **Commencement Information**

**II** [S. 10](#) in force at 28.11.2011 by [S.S.I. 2011/365](#), [art. 3](#)

**Changes to legislation:**

There are currently no known outstanding effects for the Double Jeopardy (Scotland) Act 2011, Section 10.