



# Double Jeopardy (Scotland) Act 2011

## 2011 asp 16

### *Exceptions to rule against double jeopardy*

#### **3 Admission made or becoming known after acquittal**

- (1) A person who, whether on indictment or complaint (the “original indictment or complaint”), has been acquitted of an offence (the “original offence”) may, if the conditions mentioned in subsection (3) are satisfied, be charged with, and prosecuted anew for—
  - (a) the original offence,
  - (b) an offence mentioned in subsection (2) (a “relevant offence”).
- (2) A relevant offence is—
  - (a) an offence (other than the original offence) of which it would have been competent to convict the person on the original indictment or complaint, or
  - (b) 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.
- (3) The conditions are that—
  - (a) after the acquittal—
    - (i) the person admits to committing the original offence or a relevant offence, or
    - (ii) such an admission made by that person before the acquittal becomes known, and
  - (b) the High Court, on the application of the Lord Advocate, has—
    - (i) set aside the acquittal, and
    - (ii) granted authority to bring a new prosecution.
- (4) The court may set aside the acquittal only if satisfied—
  - (a) in the case of an admission such as is mentioned in subsection (3)(a)(ii), that the admission was not known, and could not with the exercise of reasonable diligence have become known, to the prosecutor by the time of the acquittal in respect of the original offence,
  - (b) that the case against the person is strengthened substantially by the admission,

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*Status: This is the original version (as it was originally enacted).*

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- (c) that, on the admission and the evidence which was led at the trial in respect of the original offence, it is highly likely that a reasonable jury properly instructed would have convicted the person of—
  - (i) the original offence, or
  - (ii) a relevant offence, and
- (d) that it is in the interests of justice to do so.