



# Double Jeopardy (Scotland) Act 2011

## 2011 asp 16

### *Plea in bar of trial*

#### **7 Plea in bar of trial that accused has been tried before**

- (1) This section applies where a person is charged with an offence—
  - (a) whether on indictment or complaint,
  - (b) other than by virtue of—
    - (i) section 2, 3, 4, 11 or 12, or
    - (ii) section 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) or 185 (authorisation of new prosecution) of the 1995 Act.
- (2) The person may aver, as a plea in bar of trial, that the offence arises out of the same, or largely the same, acts or omissions as have already given rise to the person being tried for, and convicted or acquitted of, an offence.
- (3) The court must sustain the plea if satisfied on a balance of probabilities as to the truth of the person's averment.
- (4) But the court may repel the plea despite being so satisfied if it—
  - (a) is persuaded by the prosecutor that there is some special reason why the case should proceed to trial, and
  - (b) determines that it is in the interests of justice to do so.
- (5) Subsection (4) is subject to sections 8, 9 and 10.

#### **Commencement Information**

**11** S. 7 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 7.