

DOUBLE JEOPARDY (SCOTLAND) ACT 2011

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

General

Section 14 Retrospective application of Act

76. This section provides that the double jeopardy rule, the exceptions to it, the provisions on plea in bar of trial, section 11 on prosecutions after the death of the victim and section 12 on prosecutions where previous proceedings were a nullity have retrospective effect in that convictions or acquittals occurring prior to the commencement of the Act are subject to the Act.

Section 15 Transitional provision etc.

77. **Section 15** gives the Scottish Ministers power to make transitional arrangements in commencing the Act to ensure the smooth transition of the applicability of the new disclosure duties within the double jeopardy application proceedings to “old” trials that took place before Part 6 of the 2010 Act was in force. Under subsection (1), the power is restricted to the making of transitional arrangements only in relation to the disclosure provisions within the Act (section 13 and paragraphs 17 to 34 of the schedule).
78. Subsections (3) and (4) provide that the power will operate under the negative procedure, unless it is to be used to amend primary legislation, in which case affirmative procedure will be required.

Section 16 Consequential amendments

79. This section gives effect to consequential amendments contained within the schedule to the Act.

Section 17 Short title, interpretation and commencement

80. This section provides for the short title of the Act and allows the Scottish Ministers to appoint when the provisions of the Act should come into force by order.