



Criminal Procedure (Scotland) Act 1995

1995 CHAPTER 46

PART XIII

MISCELLANEOUS

[^{F1} Devolution issues

Textual Amendments

F1 Ss. 288A, 288B and cross-heading inserted (20.5.1999) by 1998 c. 46, s. 125, **Sch. 8 para. 32(2)** (with s. 126(3)-(11)); S.I. 1998/3178, art. 2(2), **Sch. 4**

288A ^{F2} **Rights of appeal for Advocate General: devolution issues.**

- (1) This section applies where—
 - (a) a person is acquitted or convicted of a charge (whether on indictment or in summary proceedings), and
 - (b) the Advocate General for Scotland was a party to the proceedings in pursuance of paragraph 6 of Schedule 6 to the Scotland Act 1998 (devolution issues).
- (2) The Advocate General for Scotland may refer any devolution issue which has arisen in the proceedings to the High Court for their opinion; and the Clerk of Justiciary shall send to the person acquitted or convicted and to any solicitor who acted for that person at the trial, a copy of the reference and intimation of the date fixed by the Court for a hearing.
- (3) The person may, not later than seven days before the date so fixed, intimate in writing to the Clerk of Justiciary and to the Advocate General for Scotland either—
 - (a) that he elects to appear personally at the hearing, or
 - (b) that he elects to be represented by counsel at the hearing,

Status: Point in time view as at 20/05/1999.

Changes to legislation: Criminal Procedure (Scotland) Act 1995, Cross Heading: Devolution issues is up to date with all changes known to be in force on or before 03 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

but, except by leave of the Court on cause shown, and without prejudice to his right to attend, he shall not appear or be represented at the hearing other than by and in conformity with an election under this subsection.

- (4) Where there is no intimation under subsection (3)(b), the High Court shall appoint counsel to act at the hearing as amicus curiae.
- (5) The costs of representation elected under subsection (3)(b) or of an appointment under subsection (4) shall, after being taxed by the Auditor of the Court of Session, be paid by the Advocate General for Scotland out of money provided by Parliament.
- (6) The opinion on the point referred under subsection (2) shall not affect the acquittal or (as the case may be) conviction in the trial.]

Textual Amendments

F2 Ss. 288A-288B and preceding cross-heading inserted (20.5.1999) by 1998 c. 46, s. 125, **Sch. 8 para. 32(2)** (with s. 126(3)-(11)); S.I. 1998/3178, art. 2(2), **Sch. 4**

^{F3}**288B Appeals to Judicial Committee of the Privy Council.**

- (1) This section applies where the Judicial Committee of the Privy Council determines an appeal under paragraph 13(a) of Schedule 6 to the Scotland Act 1998 against a determination of a devolution issue by the High Court in the ordinary course of proceedings.
- (2) The determination of the appeal shall not affect any earlier acquittal or earlier quashing of any conviction in the proceedings.
- (3) Subject to subsection (2) above, the High Court shall have the same powers in relation to the proceedings when remitted to it by the Judicial Committee as it would have if it were considering the proceedings otherwise than as a trial court.

Textual Amendments

F3 Ss. 288A-288B and preceding cross-heading inserted (20.5.1999) by 1998 c. 46, s. 125, **Sch. 8 para. 32(2)** (with s. 126(3)-(11)); S.I. 1998/3178, art. 2(2), **Sch. 4**

Status:

Point in time view as at 20/05/1999.

Changes to legislation:

Criminal Procedure (Scotland) Act 1995, Cross Heading: Devolution issues is up to date with all changes known to be in force on or before 03 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.