



Scotland Act 2012

2012 CHAPTER 11

PART 4

MISCELLANEOUS AND GENERAL

Miscellaneous

35 References of compatibility issues to the High Court or Supreme Court

In the Criminal Procedure (Scotland) Act 1995, after section 288ZA (inserted by section 34) insert—

“288ZB References of compatibility issues to the High Court or Supreme Court

- (1) Where a compatibility issue has arisen in criminal proceedings before a court, other than a court consisting of two or more judges of the High Court, the court may, instead of determining it, refer the issue to the High Court.
- (2) The Lord Advocate or the Advocate General for Scotland, if a party to criminal proceedings before a court, other than a court consisting of two or more judges of the High Court, may require the court to refer to the High Court any compatibility issue which has arisen in the proceedings.
- (3) The High Court may, instead of determining a compatibility issue referred to it under subsection (2), refer it to the Supreme Court.
- (4) Where a compatibility issue has arisen in criminal proceedings before a court consisting of two or more judges of the High Court, otherwise than on a reference, the court may, instead of determining it, refer it to the Supreme Court.
- (5) The Lord Advocate or the Advocate General for Scotland, if a party to criminal proceedings before a court consisting of two or more judges of the High Court, may require the court to refer to the Supreme Court any compatibility issue which has arisen in the proceedings otherwise than on a reference.

*Changes to legislation: There are currently no known outstanding effects
for the Scotland Act 2012, Section 35. (See end of Document for details)*

- (6) On a reference to the Supreme Court under this section—
 - (a) the powers of the Supreme Court are exercisable only for the purpose of determining the compatibility issue;
 - (b) for that purpose the Court may make any change in the formulation of that issue that it thinks necessary in the interests of justice.
- (7) When it has determined a compatibility issue on a reference under this section, the Supreme Court must remit the proceedings to the High Court.
- (8) An issue referred to the High Court or the Supreme Court under this section is referred to it for determination.
- (9) In this section “compatibility issue” has the meaning given by section 288ZA.”

Commencement Information

II S. 35 in force at 22.4.2013 by S.I. 2013/6, art. 2(b)

Changes to legislation:

There are currently no known outstanding effects for the Scotland Act 2012, Section 35.