

CRIMINAL JUSTICE AND LICENSING (SCOTLAND) ACT 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2 **- Criminal Law**

Section 30 **- Directing serious organised crime**

139. **Section 30(1)**
makes it an offence to direct another person to commit a serious offence (as defined in section 28(2)) or an offence aggravated by a connection with serious organised crime under section 29.
140. **Section 30(2)**
provides that a person also commits an offence where the direction he or she gives is to direct a further person to commit a serious offence or an offence aggravated by a connection with serious organised crime.
141. **Section 30(3)**
and (5)
) set out what constitutes direction for the purposes of subsections (1) and (2). First, by virtue of section 30(3), the accused must have done something, or a series of things, to direct another person to commit an offence. Second, the accused must have intended that the thing or things done will persuade that person to commit an offence. And third, the accused must intend that the direction will result in a person committing or enable a person to commit serious organised crime. Section 30(5) provides that “directing” a person to commit an offence includes, but is not limited to, “inciting” a person to commit an offence.
142. By virtue of section 30(4), any person directing a person to commit an offence mentioned in section 30(1) will be deemed to have done so regardless of whether that offence was in fact committed.
143. **Section 30(6)**
deals with penalties. The penalty for the offences in subsections (1) and (2) when tried on indictment is a maximum of 14 years imprisonment, a fine or both. On summary conviction, the available penalties are a maximum of 12 months imprisonment, a fine not exceeding the statutory maximum or both.