



# Criminal Justice and Licensing (Scotland) Act 2010

2010 asp 13

## PART 3

### CRIMINAL PROCEDURE

#### *Dockets and charges in sex cases*

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After section 288B of the 1995 Act insert—

*“Dockets and charges in sex cases*

#### **288BA Dockets for charges of sexual offences**

- (1) An indictment or a complaint may include a docket which specifies any act or omission that is connected with a sexual offence charged in the indictment or complaint.
- (2) Here, an act or omission is connected with such an offence charged if it—
  - (a) is specifiable by way of reference to a sexual offence, and
  - (b) relates to—
    - (i) the same event as the offence charged, or
    - (ii) a series of events of which that offence is also part.
- (3) The docket is to be in the form of a note apart from the offence charged.
- (4) It does not matter whether the act or omission, if it were instead charged as an offence, could not competently be dealt with by the court (including as particularly constituted) in which the indictment or complaint is proceeding.
- (5) Where under subsection (1) a docket is included in an indictment or a complaint, it is to be presumed that—

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*Status: This is the original version (as it was originally enacted).*

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- (a) the accused person has been given fair notice of the prosecutor's intention to lead evidence of the act or omission specified in the docket, and
  - (b) evidence of the act or omission is admissible as relevant.
- (6) The references in this section to a sexual offence are to—
- (a) an offence under the Sexual Offences (Scotland) Act 2009,
  - (b) any other offence involving a significant sexual element.

### **288BB Mixed charges for sexual offences**

- (1) An indictment or a complaint may include a charge that is framed as mentioned in subsection (2) or (3) (or both).
- (2) That is, framed so as to comprise (in a combined form) the specification of more than one sexual offence.
- (3) That is, framed so as to—
- (a) specify, in addition to a sexual offence, any other act or omission, and
  - (b) do so in any manner except by way of reference to a statutory offence.
- (4) Where a charge in an indictment or a complaint is framed as mentioned in subsection (2) or (3) (or both), the charge is to be regarded as being a single yet cumulative charge.
- (5) The references in this section to a sexual offence are to an offence under the Sexual Offences (Scotland) Act 2009.

### **288BC Aggravation by intent to rape**

- (1) Subsection (2) applies as respects a qualifying offence charged in an indictment or a complaint.
- (2) Any specification in the charge that the offence is with intent to rape (however construed) may be given by referring to the statutory offence of rape.
- (3) In this section—
- (a) the reference to a qualifying offence is to an offence of assault or abduction (and includes attempt, conspiracy or incitement to commit such an offence),
  - (b) the reference to the statutory offence of rape is (as the case may be) to—
    - (i) the offence of rape under section 1 of the Sexual Offences (Scotland) Act 2009, or
    - (ii) the offence of rape of a young child under section 18 of that Act.”.