



# Criminal Justice and Licensing (Scotland) Act 2010

2010 asp 13

## PART 3

### CRIMINAL PROCEDURE

#### *Crown appeals*

#### 73 Submissions as to sufficiency of evidence

After section 97 of the 1995 Act insert—

##### **“97A Submissions as to sufficiency of evidence**

- (1) Immediately after one or other (but not both) of the appropriate events, the accused may make either or both of the submissions mentioned in subsection (2) in relation to an offence libelled in an indictment (the “indicted offence”).
- (2) The submissions are—
  - (a) that the evidence is insufficient in law to justify the accused’s being convicted of the indicted offence or any other offence of which the accused could be convicted under the indictment (a “related offence”),
  - (b) that there is no evidence to support some part of the circumstances set out in the indictment.
- (3) For the purposes of subsection (1), “the appropriate events” are—
  - (a) the close of the whole of the evidence,
  - (b) the conclusion of the prosecutor’s address to the jury on the evidence.
- (4) A submission made under this section must be heard by the judge in the absence of the jury.

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*Status: This is the original version (as it was originally enacted).*

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### **97B Acquittals etc. on section 97A(2)(a) submissions**

- (1) This section applies where the accused makes a submission of the kind mentioned in section 97A(2)(a).
- (2) If the judge is satisfied that the evidence is insufficient in law to justify the accused's being convicted of the indicted offence, then—
  - (a) where the judge is satisfied that the evidence is also insufficient in law to justify the accused's being convicted of a related offence—
    - (i) the judge must acquit the accused of the indicted offence, and
    - (ii) the trial is to proceed only in respect of any other offence libelled in the indictment,
  - (b) where the judge is satisfied that the evidence is sufficient in law to justify the accused's being convicted of a related offence, the judge must direct that the indictment be amended accordingly.
- (3) If the judge is not satisfied as is mentioned in subsection (2)—
  - (a) the judge must reject the submission, and
  - (b) the trial is to proceed as if the submission had not been made.
- (4) The judge may make a decision under this section only after hearing both (or all) parties.
- (5) An amendment made by virtue of this section must be sufficiently authenticated by the initials of the judge or the clerk of court.
- (6) In this section, “indicted offence” and “related offence” have the same meanings as in section 97A.

### **97C Directions etc. on section 97A(2)(b) submissions**

- (1) This section applies where the accused makes a submission of the kind mentioned in section 97A(2)(b).
- (2) If the judge is satisfied that there is no evidence to support some part of the circumstances set out in the indictment, the judge must direct that the indictment be amended accordingly.
- (3) If the judge is not satisfied as is mentioned in subsection (2)—
  - (a) the judge must reject the submission, and
  - (b) the trial is to proceed as if the submission had not been made.
- (4) The judge may make a decision under this section only after hearing both (or all) parties.
- (5) An amendment made by virtue of this section must be sufficiently authenticated by the initials of the judge or the clerk of court.

### **97D No acquittal on “no reasonable jury” grounds**

- (1) A judge has no power to direct the jury to return a not guilty verdict on any charge on the ground that no reasonable jury, properly directed on the evidence, could convict on the charge.

- (2) Accordingly, no submission based on that ground or any ground of like effect is to be allowed.”.