
EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes commencement and transitional provisions in respect of the Double Jeopardy (Scotland) Act 2011 (“the 2011 Act”).

This Order brings into force on 28th November 2011 those provisions of the 2011 Act which are not already in force.

This Order also makes transitional provisions for the disclosure of information to the respondent. The transitional provision in article 4 will ensure that the disclosure provisions in Part 6 of the Criminal Justice and Licensing (Scotland) Act 2010 (“the 2010 Act”) will apply to 2011 Act proceedings notwithstanding that the first proceedings which gave rise to the acquittal or conviction were commenced prior to Part 6 of the 2010 Act coming into force. Article 5 makes a transitional provision to ensure that where the first proceedings concluded prior to the 2011 Act coming into force, the exceptions contained within sections 140B(4), 140C(3) and 140D(4) of the 2010 Act, which provide that the prosecutor need not disclose anything that the prosecutor has already disclosed in respect of the same matter, will apply but only in so far as this would be consistent with the respondent receiving a fair hearing.

The Bill for the 2011 Act received Royal Assent on 27th April 2011. Section 17 of the 2011 Act came into force on Royal Assent.