



# Criminal Procedure (Scotland) Act 1995

## 1995 CHAPTER 46

### PART XIII

#### MISCELLANEOUS

##### *Lord Advocate*

#### 287 [F<sup>1</sup>Demission from office of Lord Advocate and Solicitor General for Scotland].

(1) All indictments which have been raised [F<sup>2</sup>at the instance of Her Majesty's Advocate] shall remain effective notwithstanding [F<sup>3</sup>the holder of the office of Lord Advocate] subsequently having died or demitted office and may be taken up and proceeded with by his successor [F<sup>4</sup>or the Solicitor General].

(2) During any period when the office of Lord Advocate is vacant it shall be lawful to indict accused persons [F<sup>5</sup>at the instance of Her Majesty's Advocate or] the Solicitor General<sup>F6</sup> . . . .

[F<sup>7</sup>(2A) Any such indictments in proceedings at the instance of the Solicitor General may be signed by the Solicitor General.

(2B) All indictments which have been raised at the instance of the Solicitor General shall remain effective notwithstanding the holder of the office of Solicitor General subsequently having died or demitted office and may be taken up and proceeded with by his successor or the Lord Advocate.

(2C) Subsection (2D) applies during any period when the offices of Lord Advocate and Solicitor General are both vacant.

(2D) It is lawful to indict accused persons at the instance of Her Majesty's Advocate.]

(3) The advocates depute shall not demit office when a Lord Advocate dies or demits office but shall continue in office until their successors receive commissions.

*Status: Point in time view as at 16/08/2013.*

*Changes to legislation: Criminal Procedure (Scotland) Act 1995, Cross Heading: Lord Advocate is up to date with all changes known to be in force on or before 05 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (4) The advocates depute and procurators fiscal shall have power, notwithstanding any vacancy in the office of Lord Advocate [<sup>F8</sup>or Solicitor General], to take up and proceed with any indictment which—
- (a) by virtue of subsection (1) [<sup>F9</sup>or (2B)] above, remains effective; or
  - (b) by virtue of subsection (2) above, is [<sup>F10</sup>raised at the instance] of the Solicitor General.
  - [<sup>F11</sup>(c) by virtue of subsection (2D) above, is raised at the instance of Her Majesty's Advocate]
- (5) For the purposes of this Act, where, but for this subsection, demission of office by one Law Officer would result in the offices of both being vacant, he or, where both demit office on the same day, the person demitting the office of Lord Advocate shall be deemed to continue in office until the warrant of appointment of the person succeeding to the office of Lord Advocate is granted.
- (6) The Lord Advocate shall enter upon the duties of his office immediately upon the grant of his warrant of appointment; <sup>F12</sup> . . .

#### Textual Amendments

- F1** S. 287 title substituted (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 60(3)**, 206(1); S.S.I. 2010/413, **art. 2**, Sch. (with art. 5)
- F2** Words in s. 287(1) substituted (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 60(4)(a)(i)**, 206(1); S.S.I. 2010/413, **art. 2**, Sch. (with art. 5)
- F3** Words in s. 287(1) substituted (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 60(4)(a)(ii)**, 206(1); S.S.I. 2010/413, **art. 2**, Sch. (with art. 5)
- F4** Words in s. 287(1) inserted (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 60(4)(a)(iii)**, 206(1); S.S.I. 2010/413, **art. 2**, Sch. (with art. 5)
- F5** Words in s. 287(2) substituted (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 60(4)(b)(i)**, 206(1); S.S.I. 2010/413, **art. 2**, Sch. (with art. 5)
- F6** Words in s. 287(2) repealed (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 60(4)(b)(ii)**, 206(1); S.S.I. 2010/413, **art. 2**, Sch. (with art. 5)
- F7** S. 287(2A)-(2D) inserted (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 60(4)(c)**, 206(1); S.S.I. 2010/413, **art. 2**, Sch. (with art. 5)
- F8** Words in s. 287(4) inserted (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 60(4)(d)(i)**, 206(1); S.S.I. 2010/413, **art. 2**, Sch. (with art. 5)
- F9** Words in s. 287(4)(a) inserted (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 60(4)(d)(ii)**, 206(1); S.S.I. 2010/413, **art. 2**, Sch. (with art. 5)
- F10** Words in s. 287(4)(b) substituted (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 60(4)(d)(iii)**, 206(1); S.S.I. 2010/413, **art. 2**, Sch. (with art. 5)
- F11** S. 287(4)(c) inserted (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 60(4)(d)(iv)**, 206(1); S.S.I. 2010/413, **art. 2**, Sch. (with art. 5)
- F12** Words in s. 287(6) repealed (20.5.1999) by S.I. 1999/1042, arts. 1(2)(b), 4, **Sch. 2 Pt. I para. 11**, Pt. III; S.I. 1998/3178, art. 2(2), **Sch. 4**

## 288 Intimation of proceedings in High Court to Lord Advocate.

- (1) In any proceeding in the High Court (other than a proceeding to which the Lord Advocate or a procurator fiscal is a party) it shall be competent for the court to order intimation of such proceeding to the Lord Advocate.

*Status: Point in time view as at 16/08/2013.*

**Changes to legislation:** *Criminal Procedure (Scotland) Act 1995, Cross Heading: Lord Advocate is up to date with all changes known to be in force on or before 05 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

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- (2) On intimation being made to the Lord Advocate under subsection (1) above, the Lord Advocate shall be entitled to appear and be heard in such proceeding.

**Status:**

Point in time view as at 16/08/2013.

**Changes to legislation:**

Criminal Procedure (Scotland) Act 1995, Cross Heading: Lord Advocate is up to date with all changes known to be in force on or before 05 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.