



# Criminal Procedure (Scotland) Act 1995

## 1995 CHAPTER 46

### PART XIII

#### MISCELLANEOUS

#### *[<sup>F1</sup>Jury directions relating to sexual offences*

#### **[<sup>F1</sup>288DA] Jury direction relating to lack of communication about offence**

- (1) Subsection (2) applies where, in a trial on indictment for a sexual offence—
  - (a) evidence is given which suggests that the person against whom the offence is alleged to have been committed—
    - (i) did not tell, or delayed in telling, anyone, or a particular person, about the offence, or
    - (ii) did not report, or delayed in reporting, the offence to any investigating agency, or a particular investigating agency, or
  - (b) a question is asked, or a statement is made, with a view to eliciting, or drawing attention to, evidence of that nature.
- (2) In charging the jury, the judge must advise that—
  - (a) there can be good reasons why a person against whom a sexual offence is committed may not tell others about it or report it to an investigating agency, or may delay in doing either of those things, and
  - (b) this does not, therefore, necessarily indicate that an allegation is false.
- (3) Subsection (2) does not apply if the judge considers that, in the circumstances of the case, no reasonable jury could consider the evidence, question or statement by reason of which subsection (2) would otherwise apply to be material to the question of whether the alleged offence is proved.
- (4) For the purposes of this section—

“investigating agency” means—

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*Status: Point in time view as at 24/04/2017.*

**Changes to legislation:** *Criminal Procedure (Scotland) Act 1995, Section 288DA is up to date with all changes known to be in force on or before 08 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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- (a) a police force maintained for the area where the offence is alleged to have been committed,
  - (b) any other person who has functions (to any extent) of investigating crime in the area where the offence is alleged to have been committed,
- “sexual offence” has the same meaning as in section 210A, except that it does not include—
- (a) an offence under section 170 of the Customs and Excise Management Act 1979, or
  - (b) an offence under section 52A of the Civic Government (Scotland) Act 1982.]

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#### **Textual Amendments**

- F1** Ss. 288DA, 288DB and cross-heading inserted (24.4.2017) by [Abusive Behaviour and Sexual Harm \(Scotland\) Act 2016 \(asp 22\)](#), [ss. 6, 45\(2\)\(3\)](#) (with s. 44); [S.S.I. 2017/93](#), [reg. 2](#) (with [reg. 5](#))

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