



# Criminal Procedure (Scotland) Act 1995

## 1995 CHAPTER 46

### PART XIII

#### MISCELLANEOUS

*[<sup>F1</sup><sup>F1</sup>Convention rights and EU law compatibility issues, and devolution issues]*

#### <sup>F1</sup><sup>F2</sup>288ZB **References of compatibility issues to the High Court or Supreme Court**

- (1) Where a compatibility issue has arisen in criminal proceedings before a court, other than a court consisting of two or more judges of the High Court, the court may, instead of determining it, refer the issue to the High Court.
- (2) The Lord Advocate or the Advocate General for Scotland, if a party to criminal proceedings before a court, other than a court consisting of two or more judges of the High Court, may require the court to refer to the High Court any compatibility issue which has arisen in the proceedings.
- (3) The High Court may, instead of determining a compatibility issue referred to it under subsection (2), refer it to the Supreme Court.
- (4) Where a compatibility issue has arisen in criminal proceedings before a court consisting of two or more judges of the High Court, otherwise than on a reference, the court may, instead of determining it, refer it to the Supreme Court.
- (5) The Lord Advocate or the Advocate General for Scotland, if a party to criminal proceedings before a court consisting of two or more judges of the High Court, may require the court to refer to the Supreme Court any compatibility issue which has arisen in the proceedings otherwise than on a reference.
- (6) On a reference to the Supreme Court under this section—
  - (a) the powers of the Supreme Court are exercisable only for the purpose of determining the compatibility issue;
  - (b) for that purpose the Court may make any change in the formulation of that issue that it thinks necessary in the interests of justice.

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*Status: Point in time view as at 02/10/2015.*

*Changes to legislation: Criminal Procedure (Scotland) Act 1995, Section 288ZB is up to date with all changes known to be in force on or before 07 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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- (7) When it has determined a compatibility issue on a reference under this section, the Supreme Court must remit the proceedings to the High Court.
- (8) An issue referred to the High Court or the Supreme Court under this section is referred to it for determination.
- (9) In this section “compatibility issue” has the meaning given by section 288ZA.]]

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**Textual Amendments**

- F1** Ss. 288A, 288B and cross-heading inserted (20.5.1999) by 1998 c. 46, s. 125, **Sch. 8 para. 32(2)** (with s. 126(3)-(11)); S.I. 1998/3178, art. 2(2), **Sch. 4**
- F2** S. 288ZB inserted (22.4.2013) by Scotland Act 2012 (c. 11), **ss. 35, 44(5)**; S.I. 2013/6, art. 2(b)
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**Modifications etc. (not altering text)**

- C1** S. 288ZB(1)(4)(5)(7) modified (22.4.2013) by The Scotland Act 2012 (Transitional and Consequential Provisions) Order 2013 (S.I. 2013/7), arts. 1(1), **6**

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