

CRIMINAL JUSTICE AND LICENSING (SCOTLAND) ACT 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2 - Criminal Law

Section 48 - Alternative charges for fraud and embezzlement

243. Paragraph 8 of Schedule 3 to the Criminal Procedure (Scotland) Act 1995 can be applied in certain cases where the evidence led in court would not support a conviction on the basis of the offence as charged but would permit conviction of a different offence. It permits this application of an alternative charge in certain offences involving dishonest appropriation of property. For example, in terms of paragraph 8(2) of Schedule 3 an accused person charged with theft may instead be convicted of reset if the evidence led would not support conviction of theft but would support conviction of reset.
244. The amendments to Schedule 3 extend this principle to cover fraud and embezzlement. As a result of these changes, it will be possible for an accused charged with “breach of trust and embezzlement” to instead be convicted of “falsehood, fraud and wilful imposition”. Similarly, an accused charged with “falsehood, fraud and wilful imposition” may be convicted instead of “breach of trust and embezzlement”.