

**Changes to legislation:** There are currently no known outstanding effects for the Scotland Act 1998,  
Cross Heading: Criminal Procedure (Scotland) Act 1995 (c.46). (See end of Document for details)

## SCHEDULES

### SCHEDULE 8

#### MODIFICATIONS OF ENACTMENTS

##### Commencement Information

- II** Sch. 8 wholly in force at 1.4.2000; Sch. 8 partly in force at Royal Assent see s. 130(1); specified provisions of Sch. 8 in force at 6.5.1999, 20.5.1999, 1.7.1999 and 1.4.2000 by [S.I. 1998/3178](#), [arts. 2\(2\)](#), 3.

##### *Criminal Procedure (Scotland) Act 1995 (c.46)*

- 32 (1) The Criminal Procedure (Scotland) Act 1995 is amended as follows.  
(2) After section 288 there is inserted—

##### *“ Devolution issues*

##### **288A Rights of appeal for Advocate General: devolution issues.**

- (1) This section applies where—
- (a) a person is acquitted or convicted of a charge (whether on indictment or in summary proceedings), and
  - (b) the Advocate General for Scotland was a party to the proceedings in pursuance of paragraph 6 of Schedule 6 to the Scotland Act 1998 (devolution issues).
- (2) The Advocate General for Scotland may refer any devolution issue which has arisen in the proceedings to the High Court for their opinion; and the Clerk of Justiciary shall send to the person acquitted or convicted and to any solicitor who acted for that person at the trial, a copy of the reference and intimation of the date fixed by the Court for a hearing.
- (3) The person may, not later than seven days before the date so fixed, intimate in writing to the Clerk of Justiciary and to the Advocate General for Scotland either—
- (a) that he elects to appear personally at the hearing, or
  - (b) that he elects to be represented by counsel at the hearing,
- but, except by leave of the Court on cause shown, and without prejudice to his right to attend, he shall not appear or be represented at the hearing other than by and in conformity with an election under this subsection.
- (4) Where there is no intimation under subsection (3)(b), the High Court shall appoint counsel to act at the hearing as *amicus curiae*.

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- (5) The costs of representation elected under subsection (3)(b) or of an appointment under subsection (4) shall, after being taxed by the Auditor of the Court of Session, be paid by the Advocate General for Scotland out of money provided by Parliament.
- (6) The opinion on the point referred under subsection (2) shall not affect the acquittal or (as the case may be) conviction in the trial.

### **288B Appeals to Judicial Committee of the Privy Council.**

- (1) This section applies where the Judicial Committee of the Privy Council determines an appeal under paragraph 13(a) of Schedule 6 to the Scotland Act 1998 against a determination of a devolution issue by the High Court in the ordinary course of proceedings.
  - (2) The determination of the appeal shall not affect any earlier acquittal or earlier quashing of any conviction in the proceedings.
  - (3) Subject to subsection (2) above, the High Court shall have the same powers in relation to the proceedings when remitted to it by the Judicial Committee as it would have if it were considering the proceedings otherwise than as a trial court.”
- (3) In section 307(1) (interpretation), after the definition of “crime” there is inserted—  
““devolution issue” has the same meaning as in Schedule 6 to the Scotland Act 1998;”.

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