



Criminal Procedure (Scotland) Act 1995

1995 CHAPTER 46

PART XIII

MISCELLANEOUS

[^{F2}^{F1}Convention rights and EU law compatibility issues, and devolution issues]

[^{F2}288A ^{F1} Rights of appeal for Advocate General: [^{F3}compatibility issues and] 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 ^{F4}....
- [^{F5}(2) Where the Advocate General for Scotland was a party in pursuance of paragraph 6 of Schedule 6 to the Scotland Act 1998 (devolution issues), the Advocate General may refer to the High Court for their opinion any devolution issue which has arisen in the proceedings.
- (2A) Where the Advocate General for Scotland was a party in pursuance of section 288ZA, the Advocate General may refer to the High Court for their opinion any compatibility issue (within the meaning of that section) which has arisen in the proceedings.
- (2B) If a reference is made under subsection (2) or (2A) 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,

Status: Point in time view as at 01/04/2019.

Changes to legislation: Criminal Procedure (Scotland) Act 1995, Section 288A is up to date with all changes known to be in force on or before 21 June 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)

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.
- (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) [^{F6}or (2A)] shall not affect the acquittal or (as the case may be) conviction in the trial.]

Textual Amendments

- F1** Ss. 288A-288B and preceding 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** 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**
- F3** Words in s. 288A heading inserted (22.4.2013) by Scotland Act 2012 (c. 11), **ss. 34(5)**, 44(5); S.I. 2013/6, art. 2(a)
- F4** Words in s. 288A(1) omitted (22.4.2013) by virtue of Scotland Act 2012 (c. 11), **ss. 34(6)**, 44(5); S.I. 2013/6, art. 2(a)
- F5** S. 288A(2)-(2B) substituted for s. 288A(2) (22.4.2013) by Scotland Act 2012 (c. 11), **ss. 34(7)**, 44(5); S.I. 2013/6, art. 2(a)
- F6** Words in s. 288A(6) inserted (22.4.2013) by Scotland Act 2012 (c. 11), **ss. 34(8)**, 44(5); S.I. 2013/6, art. 2(a)

Status:

Point in time view as at 01/04/2019.

Changes to legislation:

Criminal Procedure (Scotland) Act 1995, Section 288A is up to date with all changes known to be in force on or before 21 June 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.