

GOVERNMENT OF WALES ACT 2006

EXPLANATORY NOTES

DETAILED COMMENTARY ON SECTIONS IN PART 6

Criminal proceedings – on indictment

765. The Crown court can refer a devolution issue direct to the Court of Appeal (paragraph 9(b)). The Court of Appeal's decision can be appealed to the Supreme Court, subject to permission having been granted by either the Court of Appeal or the Supreme Court (paragraph 11).

Part 3

Proceedings in Scotland

766. [Paragraph 13](#) provides that the Advocate General for Scotland can institute proceedings in Scotland to decide a devolution issue. Where proceedings are brought by the Advocate General, then the Counsel General is entitled to defend them.
767. This does not prevent other people from bringing or defending such proceedings, but where they do so then the Advocate General for Scotland and the Counsel General must be notified of the proceedings, and are entitled to take part in them (paragraph 14).
768. [Paragraph 29\(2\)\(b\)](#) gives the Advocate General for Scotland a general power to require courts and tribunals to refer devolution issues in proceedings to which the Advocate General is a party to the Supreme Court.
769. [Paragraphs 15-21](#) set out further procedures by which devolution issues can be referred upwards from Scottish courts of first instance to the higher courts for resolution.
770. There are different procedures depending on whether the issue arises in criminal proceedings or civil proceedings (by virtue of paragraph 1(2), this includes all non-criminal proceedings), and the court in which proceedings originate.