



# Criminal Procedure (Scotland) Act 1995

## 1995 CHAPTER 46

### PART XIII

#### MISCELLANEOUS

##### *Lord Advocate*

#### **287 [F<sup>1</sup>Demission from office of Lord Advocate and Solicitor General for Scotland].**

- (1) All indictments which have been raised [F<sup>2</sup>at the instance of Her Majesty's Advocate] shall remain effective notwithstanding [F<sup>3</sup>the holder of the office of Lord Advocate] subsequently having died or demitted office and may be taken up and proceeded with by his successor [F<sup>4</sup>or the Solicitor General].
- (2) During any period when the office of Lord Advocate is vacant it shall be lawful to indict accused persons [F<sup>5</sup>at the instance of Her Majesty's Advocate or] the Solicitor General F<sup>6</sup> . . . .

[F<sup>7</sup>(2A) Any such indictments in proceedings at the instance of the Solicitor General may be signed by the Solicitor General.

(2B) All indictments which have been raised at the instance of the Solicitor General shall remain effective notwithstanding the holder of the office of Solicitor General subsequently having died or demitted office and may be taken up and proceeded with by his successor or the Lord Advocate.

(2C) Subsection (2D) applies during any period when the offices of Lord Advocate and Solicitor General are both vacant.

(2D) It is lawful to indict accused persons at the instance of Her Majesty's Advocate.]

- (3) The advocates depute shall not demit office when a Lord Advocate dies or demits office but shall continue in office until their successors receive commissions.

*Changes to legislation: Criminal Procedure (Scotland) Act 1995, Section 287 is up to date with all changes known to be in force on or before 25 July 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) View outstanding changes*

- (4) The advocates depute and procurators fiscal shall have power, notwithstanding any vacancy in the office of Lord Advocate [<sup>F8</sup>or Solicitor General], to take up and proceed with any indictment which—
- (a) by virtue of subsection (1) [<sup>F9</sup>or (2B)] above, remains effective; or
  - (b) by virtue of subsection (2) above, is [<sup>F10</sup>raised at the instance] of the Solicitor General.
  - [<sup>F11</sup>(c) by virtue of subsection (2D) above, is raised at the instance of Her Majesty's Advocate]
- (5) For the purposes of this Act, where, but for this subsection, demission of office by one Law Officer would result in the offices of both being vacant, he or, where both demit office on the same day, the person demitting the office of Lord Advocate shall be deemed to continue in office until the warrant of appointment of the person succeeding to the office of Lord Advocate is granted.
- (6) The Lord Advocate shall enter upon the duties of his office immediately upon the grant of his warrant of appointment; <sup>F12</sup> . . .

#### Textual Amendments

- F1** S. 287 title substituted (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 60(3)**, 206(1); S.S.I. 2010/413, **art. 2**, Sch. (with art. 5)
- F2** Words in s. 287(1) substituted (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 60(4)(a)(i)**, 206(1); S.S.I. 2010/413, **art. 2**, Sch. (with art. 5)
- F3** Words in s. 287(1) substituted (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 60(4)(a)(ii)**, 206(1); S.S.I. 2010/413, **art. 2**, Sch. (with art. 5)
- F4** Words in s. 287(1) inserted (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 60(4)(a)(iii)**, 206(1); S.S.I. 2010/413, **art. 2**, Sch. (with art. 5)
- F5** Words in s. 287(2) substituted (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 60(4)(b)(i)**, 206(1); S.S.I. 2010/413, **art. 2**, Sch. (with art. 5)
- F6** Words in s. 287(2) repealed (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 60(4)(b)(ii)**, 206(1); S.S.I. 2010/413, **art. 2**, Sch. (with art. 5)
- F7** S. 287(2A)-(2D) inserted (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 60(4)(c)**, 206(1); S.S.I. 2010/413, **art. 2**, Sch. (with art. 5)
- F8** Words in s. 287(4) inserted (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 60(4)(d)(i)**, 206(1); S.S.I. 2010/413, **art. 2**, Sch. (with art. 5)
- F9** Words in s. 287(4)(a) inserted (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 60(4)(d)(ii)**, 206(1); S.S.I. 2010/413, **art. 2**, Sch. (with art. 5)
- F10** Words in s. 287(4)(b) substituted (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 60(4)(d)(iii)**, 206(1); S.S.I. 2010/413, **art. 2**, Sch. (with art. 5)
- F11** S. 287(4)(c) inserted (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 60(4)(d)(iv)**, 206(1); S.S.I. 2010/413, **art. 2**, Sch. (with art. 5)
- F12** Words in s. 287(6) repealed (20.5.1999) by S.I. 1999/1042, arts. 1(2)(b), 4, **Sch. 2 Pt. I para. 11**, Pt. III; S.I. 1998/3178, art. 2(2), **Sch. 4**

**Changes to legislation:**

Criminal Procedure (Scotland) Act 1995, Section 287 is up to date with all changes known to be in force on or before 25 July 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.

[View outstanding changes](#)

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 5A inserted by [2010 asp 13 Sch. 7 para. 26](#)
- s. 13(1B)(1C) inserted by [2006 asp 10 s. 82\(2\)](#)
- s. 13(2)(aa) inserted by [2006 asp 10 s. 82\(3\)\(b\)](#)
- s. 13(3A) inserted by [2006 asp 10 s. 82\(4\)](#)
- s. 13(5)(ba) inserted by [2006 asp 10 s. 82\(5\)\(a\)](#)
- s. 13(6)(a)(iii) and word inserted by [2006 asp 10 s. 82\(6\)\(b\)](#)
- s. 13(8) inserted by [2006 asp 10 s. 82\(7\)](#)
- s. 22(5A) inserted by [2007 asp 6 s. 7\(2\)\(g\)](#)
- s. 22A(1A) inserted by [2023 asp 4 s. 1\(2\)](#)
- s. 23B(1)(1A) substituted for s. 23B(1) by [2023 asp 4 s. 2\(2\)\(a\)](#)
- s. 23B(6A) inserted by [2023 asp 4 s. 1\(3\)\(c\)](#)
- s. 23B(8)-(10) inserted by [2023 asp 4 s. 2\(2\)\(c\)](#)
- s. 23C(1A) inserted by [2023 asp 4 s. 2\(3\)\(b\)](#)
- s. 23C(3) inserted by [2023 asp 4 s. 2\(3\)\(c\)](#)
- s. 24(2C) inserted by [2023 asp 4 s. 4\(4\)](#)
- s. 24(2AA) inserted by [2023 asp 4 s. 4\(2\)](#)
- s. 44(5A)(5B) inserted by [2024 asp 5 s. 19\(2\)\(c\)](#)
- s. 49(1)-(1F) substituted for s. 49(1)-(3) by [2024 asp 5 s. 17\(2\)\(a\)](#)
- s. 49(4A)-(4C) inserted by [2024 asp 5 s. 17\(2\)\(c\)](#)
- s. 50(7) inserted by [2024 asp 5 s. 16\(2\)](#)
- s. 51(6)-(8) inserted by [2024 asp 5 s. 18\(2\)\(e\)](#)
- s. 70B and cross-heading inserted by [2024 asp 5 s. 16\(3\)](#)
- s. 73A inserted by [2004 asp 3 s. 2\(3\)](#)
- s. 142A inserted by [2024 asp 5 s. 16\(5\)](#)
- s. 167(7D)(7E) inserted by [2007 asp 17 sch. 4 para. 1\(3\)](#)
- s. 167(7D) words substituted by [2010 asp 13 Sch. 3 para. 16\(2\)](#)
- s. 167(7E) words substituted by [2010 asp 13 Sch. 3 para. 16\(3\)](#)
- s. 175(1)(ca) words substituted by [2024 asp 5 Sch. para. 7\(4\)\(a\)](#)
- s. 194ZA repealed by [2014 asp 18 sch. 3 para. 25](#)
- s. 200A inserted by [2016 asp 1 s. 85](#)
- s. 205A added by [1997 c. 48 s. 1\(1\)](#) (This amendment not applied to legislation.gov.uk. 1997 c. 48, s. 1 repealed (27.6.2003) without ever being in force by [2003 asp 7, s. 19\(3\)](#); S.S.I. 2003/288, art. 2, Sch.)
- s. 208A inserted by [2024 asp 5 s. 19\(6\)](#)
- s. 216(8)-(11) inserted by [2024 asp 5 s. 19\(7\)](#)
- s. 249(4A)-(4D) inserted by [2014 asp 1 s. 24](#)
- s. 271D(4A) inserted by [2019 asp 8 s. 6\(4\)](#)
- s. 271F(2)(aa) inserted by [2019 asp 8 s. 10\(4\)](#)
- s. 271AA inserted by [2019 asp 8 s. 6\(2\)](#)
- s. 271BZD inserted by [2019 asp 8 s. 3\(2\)](#)
- Sch. 5A added by [1997 c. 48 s. 1\(2\)](#) (This amendment not applied to legislation.gov.uk. 1997 c. 48, s. 1 repealed (27.6.2003) without ever being in force by [2003 asp 7, s. 19\(3\)](#); S.S.I. 2003/288, art. 2, Sch.)