



Criminal Justice and Licensing (Scotland) Act 2010

2010 asp 13

PART 6

DISCLOSURE

Disclosure after conclusion of proceedings at first instance

133 Duty to disclose after conclusion of proceedings at first instance

- (1) This section applies where appellate proceedings are instituted in relation to an appellant.
- (2) As soon as practicable after the relevant act the prosecutor must—
 - (a) review all information of which the prosecutor is aware that relates to the grounds of appeal in the appellate proceedings, and
 - (b) disclose to the appellant any information that falls within subsection (3).
- (3) Information falls within this subsection if it is—
 - (a) information that the prosecutor was required by virtue of section 121(2)(b) or 123(2)(b) to disclose in the earlier proceedings but did not disclose,
 - (b) information to which, during the earlier proceedings, the prosecutor considered paragraph (a) or (b) of section 121(3) did not apply but to which the prosecutor now considers one or both of those paragraphs would apply, or
 - (c) information of which the prosecutor has become aware since the disposal of the earlier proceedings that, had the prosecutor been aware of it during those proceedings, the prosecutor would have been required to disclose by virtue of section 121(2)(b) or 123(2)(b).
- (4) The prosecutor need not disclose under subsection (2) anything that the prosecutor has already disclosed to the appellant.
- (5) In this section—

“earlier proceedings”, in relation to appellate proceedings, means the proceedings to which the appellate proceedings relate,

“relevant act” means—

- (a) in relation to proceedings of the type mentioned in paragraph (a) or (b) of the relevant definition, the granting under section 107(1)(a) of the 1995 Act of leave to appeal,
- (b) in relation to proceedings of the type mentioned in paragraph (c) or (d) of the relevant definition, the granting under section 180(1)(a) or, as the case may be, 187(1)(a) of that Act of leave to appeal,
- (c) in relation to proceedings of the type mentioned in paragraph (e) of the relevant definition, the granting of leave to appeal by the High Court of Justiciary or, as the case may be, the Supreme Court,
- (d) in relation to proceedings of the type mentioned in paragraph (f) of the relevant definition—
 - (i) if leave to appeal is required, the granting under section 191(2) of that Act of leave to appeal,
 - (ii) if leave to appeal is not required, service on the prosecutor under the relevant rule of a certified copy of the bill of suspension and the interlocutor granting first order for service,
- (e) in relation to proceedings of the type mentioned in paragraph (g) of the relevant definition, service on the prosecutor under the relevant rule of a certified copy of the bill of advocation and the interlocutor granting first order for service,
- (f) in relation to proceedings of the type mentioned in paragraph (h) of the relevant definition, service on the prosecutor under the relevant rule of a certified copy of the petition and the interlocutor granting first order for service,
- (g) in relation to proceedings of the type mentioned in paragraph (i) of the relevant definition, the lodging of the appeal,
- (h) in relation to proceedings of the type mentioned in paragraph (j) of the relevant definition, the lodging of the grounds of appeal by the person to whom the referral relates,

“relevant definition” means the definition of appellate proceedings in section 132,

“relevant rule” means rule 29A.1(3) of the Criminal Procedure Rules 1996 ([S.I. 1996/513](#)).