

EXECUTIVE NOTE

THE DISCLOSURE (PERSONS ENGAGED IN THE INVESTIGATION AND REPORTING OF CRIME OR SUDDEN DEATHS) (SCOTLAND) REGULATIONS 2011 SSI 2011/146

1. This Order is made in exercise of the powers conferred by sections 117(4) and 164(3) of the Criminal Justice and Licensing (Scotland) Act 2010. The instrument is made under the anticipatory exercise of the enabling powers, which will come into force on the same date as the coming force date of the Order. The instrument is subject to negative resolution procedure.

Policy Objectives

2. The purpose of the instrument is to prescribe the persons, other than police forces, who engage in the investigation of crime or sudden deaths and who have a duty to submit reports relating to those investigations to the procurator fiscal, and such persons who must also have regard to the code of practice, to which section 164 of the Criminal Justice and Licensing (Scotland) Act 2010 makes provision, when carrying out their functions in relation to such investigations and reporting, all for the purposes of Part 6 of that Act.

3. The purpose of Part 6 of the Act is to ensure that the prosecutor is in a position to disclose to an accused person the information required to ensure a fair trial. The Part also covers disclosures to appellants and persons to whom criminal proceedings have concluded. The Act therefore imposes duties upon the investigating authorities to ensure that the prosecutor is provided with the correct information to allow disclosure to take place. The list of prescribed persons reflects those authorities that have the duty to report their investigations of crimes or sudden deaths to the procurator fiscal.

Financial Effects

4. A Business and Regulatory Impact Assessment has not been prepared for this instrument as it has no significant impact on the investigating persons.

Consultation

5. This Order has been prepared in consultation with officials from the Crown Office and Procurator Fiscal Service, Association of Chief Police Officers in Scotland, Scottish Police Services Authority, Her Majesty's Revenue and Customs, Scottish Court Service, and the Health and Safety Executive. In preparation for the Order intimation was made to the prescribed persons and opportunities for consultation and training have been offered to discuss the implications of Part 6 of the Act to which this Order gives effect.

Scottish Government
Criminal Justice and Parole Division
February 2011