



Criminal Procedure (Scotland) Act 1995

1995 CHAPTER 46

[^{F1}PART XA

SCOTTISH CRIMINAL CASES REVIEW COMMISSION

[^{F1} Disclosure of information

Annotations:

Amendments (Textual)

- F1** Pt. XA (ss. 194A-194L) inserted (1.1.1998 for the purpose of inserting ss. 194A, 194E and 194G, otherwise 1.4.1999) by 1997 c. 48, s. 25(1); S.I. 1997/3004, art. 2, Sch.; S.I. 1999/652, art. 2, Sch. (subject to art. 3)

^{F2}194J Offence of disclosure.

- (1) A person who is or has been a member or employee of the Commission shall not disclose any information obtained by the Commission in the exercise of any of their functions unless the disclosure of the information is excepted from this section by section 194K [^{F3}or 194M] of this Act.
- (2) A member of the Commission shall not authorise the disclosure by an employee of the Commission of any information obtained by the Commission in the exercise of any of their functions unless the authorisation of the disclosure of the information is excepted from this section by section 194K [^{F4}or 194M] of this Act.
- (3) A person who contravenes this section is guilty of an offence and liable on summary conviction to a fine of an amount not exceeding level 5 on the standard scale.

Annotations:

Amendments (Textual)

- F2** S. 194J inserted (1.4.1999) by 1997 c. 48, s. 25(1); S.I. 1999/652, art. 2, Sch. (subject to art. 3)

Changes to legislation: *Criminal Procedure (Scotland) Act 1995, Cross Heading: Disclosure of information is up to date with all changes known to be in force on or before 15 July 2018. 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)*

- | | |
|-----------|--|
| F3 | Words in s. 194J(1) inserted (24.9.2012) by Criminal Cases (Punishment and Review) (Scotland) Act 2012 (asp 7), ss. 3(2), 5(2) ; S.S.I. 2012/249, art. 2 |
| F4 | Words in s. 194J(2) inserted (24.9.2012) by Criminal Cases (Punishment and Review) (Scotland) Act 2012 (asp 7), ss. 3(2), 5(2) ; S.S.I. 2012/249, art. 2 |

^{F5}194K Exceptions from obligations of non-disclosure.

- (1) The disclosure of information, or the authorisation of the disclosure of information, is excepted from section 194J of this Act by this section if the information is disclosed, or is authorised to be disclosed—
 - (a) for the purposes of any criminal, disciplinary or civil proceedings;
 - (b) in order to assist in dealing with an application made to the Secretary of State for compensation for a miscarriage of justice;
 - (c) by a person who is a member or an employee of the Commission to another person who is a member or an employee of the Commission;
 - (d) in any statement or report required by this Act;
 - (e) in or in connection with the exercise of any function under this Act; or
 - (f) in any circumstances in which the disclosure of information is permitted by an order made by the Secretary of State.
- (2) The disclosure of information is also excepted from section 194J of this Act by this section if the information is disclosed by an employee of the Commission who is authorised to disclose the information by a member of the Commission.
- (3) The disclosure of information, or the authorisation of the disclosure of information, is also excepted from section 194J of this Act by this section if the information is disclosed, or is authorised to be disclosed, for the purposes of—
 - (a) the investigation of an offence; or
 - (b) deciding whether to prosecute a person for an offence,
 unless the disclosure is or would be prevented by an obligation or other limitation on disclosure (including any such obligation or limitation imposed by, under or by virtue of any enactment) arising otherwise than under that section.
- (4) Where the disclosure of information is excepted from section 194J of this Act by subsection (1) or (2) above, the disclosure of the information is not prevented by any obligation of secrecy or other limitation on disclosure (including any such obligation or limitation imposed by, under or by virtue of any enactment) arising otherwise than under that section.
- (5) The power to make an order under subsection (1)(f) above is exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Annotations:

Amendments (Textual)

- F5** S. 194K inserted (1.4.1999) by [1997 c. 48, s. 25\(1\)](#); S.I. 1999/652, art. 2, [Sch.](#) (subject to [art. 3](#))

Changes to legislation: Criminal Procedure (Scotland) Act 1995, Cross Heading: Disclosure of information is up to date with all changes known to be in force on or before 15 July 2018. 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)

194L Consent to disclosure.

- (1) Where a person or body is required by an order under section 194I of this Act to produce or allow access to a document or other material to the Commission and notifies them that any information contained in the document or other material to which the order relates is not to be disclosed by the Commission without his or its prior consent, the Commission shall not disclose the information without such consent.
- (2) Such consent may not be withheld unless—
 - (a) (apart from section 194I of this Act) the person would have been prevented by any obligation of secrecy or other limitation on disclosure from disclosing the information without such consent; and
 - (b) it is reasonable for the person to withhold his consent to disclosure of the information by the Commission.
- (3) An obligation of secrecy or other limitation on disclosure which applies to a person only where disclosure is not authorised by another person shall not be taken for the purposes of subsection (2)(a) above to prevent the disclosure by the person of information to the Commission unless—
 - (a) reasonable steps have been taken to obtain the authorisation of the other person; or
 - (b) such authorisation could not reasonably be expected to be obtained.]]

Annotations:

Amendments (Textual)

F6 S. 194L inserted (1.4.1999) by 1997 c. 48, s. 25(1); S.I. 1999/652, art. 2, Sch. (subject to art. 3)

Changes to legislation:

Criminal Procedure (Scotland) Act 1995, Cross Heading: Disclosure of information is up to date with all changes known to be in force on or before 15 July 2018. 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.

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. 23D(3A) inserted by 2018 asp 5 Sch. para. 1(2)(b)
- s. 35(4AA) inserted by 2018 asp 5 Sch. para. 4(2)(c)
- s. 66(14A) inserted by 2018 asp 5 Sch. para. 4(3)(c)
- s. 71(B1)(aa) inserted by 2018 asp 5 Sch. para. 4(4)
- s. 73A inserted by 2004 asp 3 s. 2(3)
- s. 79(3A)(d) inserted by 2018 asp 5 Sch. para. 10(2)
- s. 92(2F)(aa) inserted by 2018 asp 5 Sch. para. 4(7)
- s. 144(3AA) inserted by 2018 asp 5 Sch. para. 4(9)(b)
- s. 146(3AA) inserted by 2018 asp 5 Sch. para. 4(10)(b)
- s. 148A title substituted by 2018 asp 5 Sch. para. 4(12)
- s. 148A(10) inserted by 2018 asp 5 Sch. para. 4(11)(b)
- s. 150A(8)(aa) inserted by 2018 asp 5 Sch. para. 4(13)
- 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. 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. 210AB and cross-heading inserted by 2018 asp 5 Sch. para. 8(2)
- s. 234AZA inserted by 2018 asp 5 Sch. para. 9(2)
- s. 248D 248E inserted by 2009 c. 25 Sch. 16 para. 3
- s. 249(4A)-(4D) inserted by 2014 asp 1 s. 24
- s. 253A-253E and cross-heading inserted by 2014 asp 1 s. 25
- s. 253A(2) applied by 2002 c. 29, s. 97A(9) (as inserted) by 2015 c. 9 s. 15(2)
- s. 271B(2)(g)-(i) inserted by 2018 asp 5 Sch. para. 6(2)(b)
- s. 275C(1)(a) words renumbered as s. 275C(1)(a) by 2018 asp 5 Sch. para. 7(2)(a)(i)
- s. 275C(1)(b)(c) inserted by 2018 asp 5 Sch. para. 7(2)(a)(ii)
- s. 275C(3A) inserted by 2018 asp 5 Sch. para. 7(2)(b)
- s. 288F(1)(ba) inserted by 2018 asp 5 Sch. para. 4(16)
- s. 288DC inserted by 2018 asp 5 Sch. para. 4(14)
- 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.)