



# Criminal Procedure and Investigations Act 1996

## 1996 CHAPTER 25

### PART I

#### DISCLOSURE

##### *The main provisions*

### **3 Primary disclosure by prosecutor**

- (1) The prosecutor must—
  - (a) disclose to the accused any prosecution material which has not previously been disclosed to the accused and which in the prosecutor's opinion might undermine the case for the prosecution against the accused, or
  - (b) give to the accused a written statement that there is no material of a description mentioned in paragraph (a).
- (2) For the purposes of this section prosecution material is material—
  - (a) which is in the prosecutor's possession, and came into his possession in connection with the case for the prosecution against the accused, or
  - (b) which, in pursuance of a code operative under Part II, he has inspected in connection with the case for the prosecution against the accused.
- (3) Where material consists of information which has been recorded in any form the prosecutor discloses it for the purposes of this section—
  - (a) by securing that a copy is made of it and that the copy is given to the accused, or
  - (b) if in the prosecutor's opinion that is not practicable or not desirable, by allowing the accused to inspect it at a reasonable time and a reasonable place or by taking steps to secure that he is allowed to do so;

and a copy may be in such form as the prosecutor thinks fit and need not be in the same form as that in which the information has already been recorded.

- (4) Where material consists of information which has not been recorded the prosecutor discloses it for the purposes of this section by securing that it is recorded in such form as he thinks fit and—
  - (a) by securing that a copy is made of it and that the copy is given to the accused, or
  - (b) if in the prosecutor’s opinion that is not practicable or not desirable, by allowing the accused to inspect it at a reasonable time and a reasonable place or by taking steps to secure that he is allowed to do so.
- (5) Where material does not consist of information the prosecutor discloses it for the purposes of this section by allowing the accused to inspect it at a reasonable time and a reasonable place or by taking steps to secure that he is allowed to do so.
- (6) Material must not be disclosed under this section to the extent that the court, on an application by the prosecutor, concludes it is not in the public interest to disclose it and orders accordingly.
- (7) Material must not be disclosed under this section to the extent that—
  - (a) it has been intercepted in obedience to a warrant issued under section 2 of the Interception of Communications Act 1985, or
  - (b) it indicates that such a warrant has been issued or that material has been intercepted in obedience to such a warrant.
- (8) The prosecutor must act under this section during the period which, by virtue of section 12, is the relevant period for this section.

#### **4 Primary disclosure: further provisions**

- (1) This section applies where—
  - (a) the prosecutor acts under section 3, and
  - (b) before so doing he was given a document in pursuance of provision included, by virtue of section 24(3), in a code operative under Part II.
- (2) In such a case the prosecutor must give the document to the accused at the same time as the prosecutor acts under section 3.

#### **5 Compulsory disclosure by accused**

- (1) Subject to subsections (2) to (4), this section applies where—
  - (a) this Part applies by virtue of section 1(2), and
  - (b) the prosecutor complies with section 3 or purports to comply with it.
- (2) Where this Part applies by virtue of section 1(2)(b), this section does not apply unless—
  - (a) a copy of the notice of transfer, and
  - (b) copies of the documents containing the evidence,
 have been given to the accused under regulations made under section 5(9) of the Criminal Justice Act 1987.

- (3) Where this Part applies by virtue of section 1(2)(c), this section does not apply unless—
- (a) a copy of the notice of transfer, and
  - (b) copies of the documents containing the evidence,
- have been given to the accused under regulations made under paragraph 4 of Schedule 6 to the Criminal Justice Act 1991.
- (4) Where this Part applies by virtue of section 1(2)(e), this section does not apply unless the prosecutor has served on the accused a copy of the indictment and a copy of the set of documents containing the evidence which is the basis of the charge.
- (5) Where this section applies, the accused must give a defence statement to the court and the prosecutor.
- (6) For the purposes of this section a defence statement is a written statement—
- (a) setting out in general terms the nature of the accused's defence,
  - (b) indicating the matters on which he takes issue with the prosecution, and
  - (c) setting out, in the case of each such matter, the reason why he takes issue with the prosecution.
- (7) If the defence statement discloses an alibi the accused must give particulars of the alibi in the statement, including—
- (a) the name and address of any witness the accused believes is able to give evidence in support of the alibi, if the name and address are known to the accused when the statement is given;
  - (b) any information in the accused's possession which might be of material assistance in finding any such witness, if his name or address is not known to the accused when the statement is given.
- (8) For the purposes of this section evidence in support of an alibi is evidence tending to show that by reason of the presence of the accused at a particular place or in a particular area at a particular time he was not, or was unlikely to have been, at the place where the offence is alleged to have been committed at the time of its alleged commission.
- (9) The accused must give a defence statement under this section during the period which, by virtue of section 12, is the relevant period for this section.

## **6 Voluntary disclosure by accused**

- (1) This section applies where—
- (a) this Part applies by virtue of section 1(1), and
  - (b) the prosecutor complies with section 3 or purports to comply with it.
- (2) The accused—
- (a) may give a defence statement to the prosecutor, and
  - (b) if he does so, must also give such a statement to the court.
- (3) Subsections (6) to (8) of section 5 apply for the purposes of this section as they apply for the purposes of that.
- (4) If the accused gives a defence statement under this section he must give it during the period which, by virtue of section 12, is the relevant period for this section.

## **7 Secondary disclosure by prosecutor**

- (1) This section applies where the accused gives a defence statement under section 5 or 6.
- (2) The prosecutor must—
  - (a) disclose to the accused any prosecution material which has not previously been disclosed to the accused and which might be reasonably expected to assist the accused's defence as disclosed by the defence statement given under section 5 or 6, or
  - (b) give to the accused a written statement that there is no material of a description mentioned in paragraph (a).
- (3) For the purposes of this section prosecution material is material—
  - (a) which is in the prosecutor's possession and came into his possession in connection with the case for the prosecution against the accused, or
  - (b) which, in pursuance of a code operative under Part II, he has inspected in connection with the case for the prosecution against the accused.
- (4) Subsections (3) to (5) of section 3 (method by which prosecutor discloses) apply for the purposes of this section as they apply for the purposes of that.
- (5) Material must not be disclosed under this section to the extent that the court, on an application by the prosecutor, concludes it is not in the public interest to disclose it and orders accordingly.
- (6) Material must not be disclosed under this section to the extent that—
  - (a) it has been intercepted in obedience to a warrant issued under section 2 of the Interception of Communications Act 1985, or
  - (b) it indicates that such a warrant has been issued or that material has been intercepted in obedience to such a warrant.
- (7) The prosecutor must act under this section during the period which, by virtue of section 12, is the relevant period for this section.

## **8 Application by accused for disclosure**

- (1) This section applies where the accused gives a defence statement under section 5 or 6 and the prosecutor complies with section 7 or purports to comply with it or fails to comply with it.
- (2) If the accused has at any time reasonable cause to believe that—
  - (a) there is prosecution material which might be reasonably expected to assist the accused's defence as disclosed by the defence statement given under section 5 or 6, and
  - (b) the material has not been disclosed to the accused,the accused may apply to the court for an order requiring the prosecutor to disclose such material to the accused.
- (3) For the purposes of this section prosecution material is material—
  - (a) which is in the prosecutor's possession and came into his possession in connection with the case for the prosecution against the accused,
  - (b) which, in pursuance of a code operative under Part II, he has inspected in connection with the case for the prosecution against the accused, or
  - (c) which falls within subsection (4).

- (4) Material falls within this subsection if in pursuance of a code operative under Part II the prosecutor must, if he asks for the material, be given a copy of it or be allowed to inspect it in connection with the case for the prosecution against the accused.
- (5) Material must not be disclosed under this section to the extent that the court, on an application by the prosecutor, concludes it is not in the public interest to disclose it and orders accordingly.
- (6) Material must not be disclosed under this section to the extent that—
  - (a) it has been intercepted in obedience to a warrant issued under section 2 of the Interception of Communications Act 1985, or
  - (b) it indicates that such a warrant has been issued or that material has been intercepted in obedience to such a warrant.

## **9 Continuing duty of prosecutor to disclose**

- (1) Subsection (2) applies at all times—
  - (a) after the prosecutor complies with section 3 or purports to comply with it, and
  - (b) before the accused is acquitted or convicted or the prosecutor decides not to proceed with the case concerned.
- (2) The prosecutor must keep under review the question whether at any given time there is prosecution material which—
  - (a) in his opinion might undermine the case for the prosecution against the accused, and
  - (b) has not been disclosed to the accused;and if there is such material at any time the prosecutor must disclose it to the accused as soon as is reasonably practicable.
- (3) In applying subsection (2) by reference to any given time the state of affairs at that time (including the case for the prosecution as it stands at that time) must be taken into account.
- (4) Subsection (5) applies at all times—
  - (a) after the prosecutor complies with section 7 or purports to comply with it, and
  - (b) before the accused is acquitted or convicted or the prosecutor decides not to proceed with the case concerned.
- (5) The prosecutor must keep under review the question whether at any given time there is prosecution material which—
  - (a) might be reasonably expected to assist the accused's defence as disclosed by the defence statement given under section 5 or 6, and
  - (b) has not been disclosed to the accused;and if there is such material at any time the prosecutor must disclose it to the accused as soon as is reasonably practicable.
- (6) For the purposes of this section prosecution material is material—
  - (a) which is in the prosecutor's possession and came into his possession in connection with the case for the prosecution against the accused, or
  - (b) which, in pursuance of a code operative under Part II, he has inspected in connection with the case for the prosecution against the accused.

- (7) Subsections (3) to (5) of section 3 (method by which prosecutor discloses) apply for the purposes of this section as they apply for the purposes of that.
- (8) Material must not be disclosed under this section to the extent that the court, on an application by the prosecutor, concludes it is not in the public interest to disclose it and orders accordingly.
- (9) Material must not be disclosed under this section to the extent that—
  - (a) it has been intercepted in obedience to a warrant issued under section 2 of the Interception of Communications Act 1985, or
  - (b) it indicates that such a warrant has been issued or that material has been intercepted in obedience to such a warrant.

## **10 Prosecutor's failure to observe time limits**

- (1) This section applies if the prosecutor—
  - (a) purports to act under section 3 after the end of the period which, by virtue of section 12, is the relevant period for section 3, or
  - (b) purports to act under section 7 after the end of the period which, by virtue of section 12, is the relevant period for section 7.
- (2) Subject to subsection (3), the failure to act during the period concerned does not on its own constitute grounds for staying the proceedings for abuse of process.
- (3) Subsection (2) does not prevent the failure constituting such grounds if it involves such delay by the prosecutor that the accused is denied a fair trial.

## **11 Faults in disclosure by accused**

- (1) This section applies where section 5 applies and the accused—
  - (a) fails to give a defence statement under that section,
  - (b) gives a defence statement under that section but does so after the end of the period which, by virtue of section 12, is the relevant period for section 5,
  - (c) sets out inconsistent defences in a defence statement given under section 5,
  - (d) at his trial puts forward a defence which is different from any defence set out in a defence statement given under section 5,
  - (e) at his trial adduces evidence in support of an alibi without having given particulars of the alibi in a defence statement given under section 5, or
  - (f) at his trial calls a witness to give evidence in support of an alibi without having complied with subsection (7)(a) or (b) of section 5 as regards the witness in giving a defence statement under that section.
- (2) This section also applies where section 6 applies, the accused gives a defence statement under that section, and the accused—
  - (a) gives the statement after the end of the period which, by virtue of section 12, is the relevant period for section 6,
  - (b) sets out inconsistent defences in the statement,
  - (c) at his trial puts forward a defence which is different from any defence set out in the statement,
  - (d) at his trial adduces evidence in support of an alibi without having given particulars of the alibi in the statement, or

- (e) at his trial calls a witness to give evidence in support of an alibi without having complied with subsection (7)(a) or (b) of section 5 (as applied by section 6) as regards the witness in giving the statement.
- (3) Where this section applies—
- (a) the court or, with the leave of the court, any other party may make such comment as appears appropriate;
  - (b) the court or jury may draw such inferences as appear proper in deciding whether the accused is guilty of the offence concerned.
- (4) Where the accused puts forward a defence which is different from any defence set out in a defence statement given under section 5 or 6, in doing anything under subsection (3) or in deciding whether to do anything under it the court shall have regard—
- (a) to the extent of the difference in the defences, and
  - (b) to whether there is any justification for it.
- (5) A person shall not be convicted of an offence solely on an inference drawn under subsection (3).
- (6) Any reference in this section to evidence in support of an alibi shall be construed in accordance with section 5.