



Police, Public Order and Criminal Justice (Scotland) Act 2006

2006 asp 10

PART 3

CRIMINAL JUSTICE

Offenders assisting investigations and prosecutions

96 [F¹ Appeals etc. in the High Court: undisclosed information]

- (1) This section applies to any proceedings in the High Court in relation to—
 - (a) an appeal under section 106(1), 108, [F² or 108A] of the 1995 Act;
 - (b) an appeal by way of bill of suspension or advocacion;
 - (c) a reference by the Lord Advocate under section 123 of that Act;
 - (d) a reference by the Scottish Criminal Cases Review Commission under section 194B of that Act; or
 - (e) a petition to the nobile officium.
- (2) In subsection (1) the reference to proceedings in the High Court includes consideration by a judge of the High Court whether to grant leave to appeal under section 107 F³ ... of the 1995 Act.
- (3) If, under subsection (2) of section 95, the lower court in passing sentence on the offender took into account information contained in a report mentioned in that subsection, the High Court and the Clerk of Justiciary—
 - (a) must not disclose the information or the existence of the report to any person other than the prosecutor, the offender and, with the offender's agreement, the offender's counsel or solicitor; and
 - (b) must not disclose to any person whether the sentence passed by the lower court is less than it would have passed but for the assistance given by the offender.
- (4) If, in a case not falling within subsection (3), the High Court or the Clerk of Justiciary becomes aware of information contained in a report mentioned in subsection (2) of section 95 or that a court in passing sentence has, under that subsection, taken that information into account, the High Court or the Clerk of Justiciary must not disclose to

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any person the information, the existence of the report or whether the sentence passed by the lower court on the person to whom the report relates is less than the sentence it would have passed but for the assistance given by that person.

- (5) Sections 107(10), 113(2)^{F4} ... and 298(2) of the 1995 Act do not apply in a case falling within subsection (3) or (4) to the extent that they require a disclosure which, if made by the High Court or the Clerk of Justiciary, would contravene the subsection in question.
- (6) Subsection (5) does not, however, operate so as to prevent any disclosure to the Crown Agent or the Scottish Criminal Cases Review Commission; but subsection (3) or, as the case may be, subsection (4) applies to the Crown Agent and the Commission in relation to any such disclosure as it applies to the High Court and the Clerk of Justiciary in relation to a case falling within that subsection (but not so as to prevent disclosure by the Crown Agent or the Commission to the High Court).
- (7) Subsections (2) to (5) of section 93 apply to proceedings referred to in subsection (1) of this section as they apply to proceedings referred to in subsection (1) of that section.
- (8) The Scottish Ministers may, by order, make further provision for the purpose of giving full effect to the preceding provisions of this section [^{F5}or to section 96A], including provision modifying the 1995 Act.

Textual Amendments

- F1** S. 96 heading substituted (22.9.2015) by The Courts Reform (Scotland) Act 2014 (Consequential Provisions No. 2) Order 2015 (S.S.I. 2015/338), art. 1, **Sch. 2 para. 9(5)** (with art. 4)
- F2** Words in s. 96(1)(a) substituted (22.9.2015) by The Courts Reform (Scotland) Act 2014 (Consequential Provisions No. 2) Order 2015 (S.S.I. 2015/338), art. 1, **Sch. 2 para. 9(4)(a)** (with art. 4)
- F3** Words in s. 96(2) repealed (22.9.2015) by The Courts Reform (Scotland) Act 2014 (Consequential Provisions No. 2) Order 2015 (S.S.I. 2015/338), art. 1, **Sch. 2 para. 9(4)(b)** (with art. 4)
- F4** Words in s. 96(5) repealed (22.9.2015) by The Courts Reform (Scotland) Act 2014 (Consequential Provisions No. 2) Order 2015 (S.S.I. 2015/338), art. 1, **Sch. 2 para. 9(4)(c)** (with art. 4)
- F5** Words in s. 96(8) inserted (22.9.2015) by The Courts Reform (Scotland) Act 2014 (Consequential Provisions No. 2) Order 2015 (S.S.I. 2015/338), art. 1, **Sch. 2 para. 9(4)(d)** (with art. 4)

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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. 47A inserted by [2023 c. 41 s. 45\(3\)](#)