

CRIMINAL PROCEEDINGS ETC. (REFORM) (SCOTLAND) ACT 2007

EXPLANATORY NOTES

INTRODUCTION

Part 2 - Proceedings

Summary procedure

Section 12: Disclosure of convictions

New Section 166B

80. Subsection (1) of section 166B borrows from and extends the existing provisions of section 166 of the 1995 Act. It provides that a complaint may contain, and evidence may be led in respect of charges, notwithstanding that the charges, or evidence, may disclose the fact that the accused has previous convictions. The prosecutor presently in proceedings is restricted as to how s/he may make it known to the court that the accused has been previously convicted. The prosecutor may only lead evidence of previous convictions where that fact is evidence of the charge before the court or ask questions of the accused as a witness to show that s/he has been previously convicted where s/he has given evidence that s/he is of good character.
81. Subsection (2) provides details of when previous convictions may be disclosed on complaints (where the offences relate to the same occasion, are of a similar character or form part of a course of conduct). This is a fundamental change in procedure. Presently where an accused is charged with a series of offences and one or more of these offences is due to the fact that the accused has a previous conviction it is necessary to separate those charges which disclose the conviction from the other related charges. The most common scenario is where an accused is charged with a motoring offence and it is discovered that the accused has been previously convicted and disqualified from driving. The charge of driving whilst disqualified presently requires to be included in a separate complaint from the other charges (for instance careless or drunk driving) and where the accused pleads not guilty to the charges two separate trials are required. This provision will allow all the charges to be included in one complaint and evidence in respect of all the charges to be led at one trial.