



Criminal Justice and Licensing (Scotland) Act 2010

2010 asp 13

PART 6

DISCLOSURE

[^{F1}Court rulings on disclosure: 2011 Act proceedings

Textual Amendments

F1 Ss. 140A-140F and cross-headings inserted (28.11.2011) by [Double Jeopardy \(Scotland\) Act 2011 \(asp 16\)](#), [ss. 13\(2\), 17\(3\)](#); [S.S.I. 2011/365, art. 3](#) (with [arts. 4, 5](#))

140E Application by respondent for ruling on disclosure

- (1) This section applies where the respondent—
 - (a) has made a further disclosure request under section 140D, and
 - (b) considers that the prosecutor has failed, in responding to the request, to disclose to the respondent an item of information falling within section 140B(3) (the “information in question”).
- (2) The respondent may apply to the court for a ruling on whether the information in question falls within section 140B(3).
- (3) An application under subsection (2) is to be made in writing and must set out—
 - (a) a description of the information in question, and
 - (b) the respondent's grounds for considering that the information in question falls within section 140B(3).
- (4) On receiving an application under subsection (2), the court must appoint a hearing at which the application is to be considered and determined.
- (5) However, the court may dispose of the application without appointing a hearing if the court considers that the application does not—

Status: Point in time view as at 28/11/2011.

Changes to legislation: There are currently no known outstanding effects for the Criminal Justice and Licensing (Scotland) Act 2010, Cross Heading: Court rulings on disclosure: 2011 Act proceedings. (See end of Document for details)

- (a) comply with subsection (3), or
 - (b) otherwise disclose any reasonable grounds for considering that the information in question falls within section 140B(3).
- (6) At a hearing appointed under subsection (4), the court must give the prosecutor and the respondent an opportunity to be heard before determining the application.
- (7) On determining the application, the court must make a ruling on whether the information in question, or any part of the information in question, falls within section 140B(3).
- (8) In this section and in section 140F, “the court” means the High Court.
- (9) Except where it is impracticable to do so, the application is to be assigned to the judge or judges who are to hear the 2011 Act proceedings.

140F Review of ruling under section 140E

- (1) This section applies where—
- (a) a court has made a ruling under section 140E that an item of information (the “information in question”) does not fall within section 140B(3), and
 - (b) during the relevant period—
 - (i) the respondent becomes aware of information (“secondary information”) that was unavailable to the court at the time it made its ruling, and
 - (ii) the respondent considers that, had the secondary information been available to the court at that time, it would have made a ruling that the information in question does fall within section 140B(3).
- (2) The respondent may apply to the court which made the ruling for a review of the ruling.
- (3) An application under subsection (2) is to be made in writing and must set out—
- (a) a description of the information in question and the secondary information, and
 - (b) the respondent's grounds for considering that the information in question falls within section 140B(3).
- (4) On receiving an application under subsection (2), the court must appoint a hearing at which the application is to be considered and determined.
- (5) However, the court may dispose of the application without appointing a hearing if the court considers that the application does not—
- (a) comply with subsection (3), or
 - (b) otherwise disclose any reasonable grounds for considering that the information in question falls within section 140B(3).
- (6) At a hearing appointed under subsection (4), the court must give the prosecutor and the respondent an opportunity to be heard before determining the application.
- (7) On determining the application, the court may—
- (a) affirm the ruling being reviewed, or
 - (b) recall that ruling and make a ruling that the information in question, or any part of the information in question, falls within section 140B(3).

Status: Point in time view as at 28/11/2011.

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- (8) Except where it is impracticable to do so, the application is to be assigned to the judge or judges who dealt with the application for the ruling that is being reviewed.
- (9) Nothing in this section affects any right of appeal in relation to the ruling being reviewed.
- (10) In this section, “relevant period”, in relation to a respondent, means the period—
 - (a) beginning with the making of the ruling being reviewed, and
 - (b) ending with the relevant conclusion.
- (11) In subsection (10), “relevant conclusion” has the meaning given by section 140C(6).]

Status:

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