



Criminal Justice and Licensing (Scotland) Act 2010

2010 asp 13

PART 6

DISCLOSURE

[^{F1}Disclosure in relation to 2011 Act proceedings

[^{F1}140B Duty to disclose on institution of 2011 Act proceedings

- (1) This section applies where 2011 Act proceedings are instituted in relation to a respondent.
- (2) As soon as practicable after the relevant act the prosecutor must—
 - (a) review all information of which the prosecutor is aware that relates to the 2011 Act proceedings, and
 - (b) disclose to the respondent any information that falls within subsection (3).
- (3) Information falls within this subsection if it is—
 - (a) information that the prosecutor was required by virtue of section 121(2)(b), 123(2)(b), 133(2)(b), 134(2)(b), 136(2), 137(2) or 138(2) to disclose in, or in relation to, the first proceedings but did not disclose,
 - (b) information to which, during the first proceedings, the prosecutor considered paragraph (a) or (b) of section 121(3) or subsection (3) of section 133 did not apply but to which the prosecutor now considers one or both of those paragraphs or that subsection would apply,
 - (c) information of which the prosecutor has become aware since the disposal of the first proceedings that, had the prosecutor been aware of it during or after those proceedings, the prosecutor would have been required to disclose by virtue of section 121(2)(b), 123(2)(b), 133(2)(b), 134(2)(b), 136(2), 137(2) or 138(2), or
 - (d) information of which the prosecutor has become aware since the disposal of the first proceedings, other than information that falls within paragraph (c), which—

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- (i) would materially weaken or undermine the evidence that is likely to be led or relied on by the prosecutor in the 2011 Act proceedings involving the respondent,
 - (ii) would materially strengthen the respondent's case, or
 - (iii) is likely to form part of the evidence to be led or relied on by the prosecutor in the 2011 Act proceedings involving the respondent.
- (4) The prosecutor need not disclose under subsection (2)(b) anything that the prosecutor has already disclosed to the respondent.
- (5) In this section—
- “appellate proceedings” has the meaning given by section 132,
 - “first proceedings”, in relation to 2011 Act proceedings, means the proceedings (including any appellate proceedings or other appeal) in or as a result of which the respondent was convicted or acquitted,
 - “relevant act” means the making of the application under section 2(2), 3(3)(b), 4(3)(b), 11(3) or 12(3) of the 2011 Act.]

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)

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