



Criminal Justice and Licensing (Scotland) Act 2010

2010 asp 13

PART 6

DISCLOSURE

General

166 Abolition of common law rules about disclosure

- (1) The provisions of this Part replace any equivalent common law rules about disclosure of information by the prosecutor in connection with criminal proceedings.
- (2) The common law rules about disclosure of information by the prosecutor in connection with criminal proceedings are abolished in so far as they are replaced by or are inconsistent with the provisions of this Part.
- (3) Sections 128 and 139 do not affect any right under the common law of an accused or appellant to seek disclosure or recovery of information by or from the prosecutor by means of a procedure other than an application under one or other of those sections.
- (4) Subsection (5) applies where, following an application (the “earlier disclosure application”) by the accused or the appellant under section 128 or 139, the court has made a ruling that (as the case may be)—
 - (a) section 121(3) does not apply to information, or
 - (b) information does not fall within section 133(3).
- (5) The accused or, as the case may be, the appellant, is not entitled to seek the disclosure or recovery of the same information by or from the prosecutor by means of any other procedure at common law on grounds that are substantially the same as any of those on which the earlier disclosure application was made.
- (6) Subsection (7) applies where, following an application (the “earlier common law application”) by the accused under a procedure other than an application under section 128 or 139, the court has decided not to make an order for the recovery or disclosure of information by or from the prosecutor.

Status: This is the original version (as it was originally enacted).

- (7) The accused or, as the case may be, the appellant is not entitled to make an application under section 128 or 139 in relation to the same information on grounds that are substantially the same as any of those on which the earlier common law application was made.
- (8) In this section, “appellant” has the meaning given by section 132.