



Criminal Justice and Licensing (Scotland) Act 2010

2010 asp 13

PART 6

DISCLOSURE

Court rulings on disclosure

128 Application by accused for ruling on disclosure

- (1) This section applies where the accused—
 - (a) has lodged a defence statement under section 70A of the 1995 Act or section 125 or 126 of this Act, and
 - (b) considers that the prosecutor has failed, in responding to the statement, to disclose to the accused an item of information to which section 121(3) applies (the “information in question”).
- (2) The accused may apply to the court for a ruling on whether section 121(3) applies to the information in question.
- (3) An application under subsection (2) is to be made in writing and must set out—
 - (a) where the accused is charged with more than one offence, the charge or charges to which the application relates,
 - (b) a description of the information in question, and
 - (c) the accused's grounds for considering that section 121(3) applies to the information in question.
- (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 section 121(3) applies to the information in question.

Changes to legislation: There are currently no known outstanding effects for the Criminal Justice and Licensing (Scotland) Act 2010, Section 128. (See end of Document for details)

- (6) At a hearing appointed under subsection (4), the court must give the prosecutor and the accused an opportunity to be heard before determining the application.
- (7) On determining the application, the court must—
- (a) make a ruling on whether section 121(3) applies to the information in question or to any part of the information in question, and
 - (b) where the accused is charged with more than one offence, specify the charge or charges to which the ruling relates.
- (8) Except where it is impracticable to do so, the application is to be assigned to the justice of the peace, sheriff or judge who is presiding, or is to preside, at the accused's trial.

Commencement Information

II S. 128 in force at 6.6.2011 by [S.S.I. 2011/178](#) , art. 2 , [Sch.](#) (with [Sch.](#))

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