



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^[F1], 139 and 140E] do not affect any right under the common law of an accused^[F2], appellant or respondent] 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^[F3], the appellant or the respondent] under section 128^[F4], 139 or 140E], the court has made a ruling that (as the case may be)—
 - (a) section 121(3) does not apply to information,^{F5}...
 - (b) information does not fall within section 133(3)^[F6], or
 - (c) information does not fall within section 140B(3).]
- (5) The accused^[F7], the appellant or, as the case may be, the respondent] 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 [^{F8}or the respondent] under a procedure other than an

Changes to legislation: There are currently no known outstanding effects for the Criminal Justice and Licensing (Scotland) Act 2010, Section 166. (See end of Document for details)

application under section 128^[F9], 139 or 140E], the court has decided not to make an order for the recovery or disclosure of information by or from the prosecutor.

- (7) The accused^[F10], the appellant or, as the case may be, the respondent] is not entitled to make an application under section 128^[F11], 139 or 140E] 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.

^[F12](8) In this section—

“ appellant ” has the meaning given by section 132,

“ respondent ” has the meaning given by section 140A.]

Textual Amendments

- F1** Words in s. 166(3) substituted (28.11.2011) by Double Jeopardy (Scotland) Act 2011 (asp 16) , s. 17(3) , **Sch. para. 33(a)(i)** ; S.S.I. 2011/365 , art. 3
- F2** Words in s. 166(3) substituted (28.11.2011) by Double Jeopardy (Scotland) Act 2011 (asp 16) , s. 17(3) , **Sch. para. 33(a)(ii)** ; S.S.I. 2011/365 , art. 3
- F3** Words in s. 166(4) substituted (28.11.2011) by Double Jeopardy (Scotland) Act 2011 (asp 16) , s. 17(3) , **Sch. para. 33(b)(i)** ; S.S.I. 2011/365 , art. 3
- F4** Words in s. 166(4) substituted (28.11.2011) by Double Jeopardy (Scotland) Act 2011 (asp 16) , s. 17(3) , **Sch. para. 33(b)(ii)** ; S.S.I. 2011/365 , art. 3
- F5** Word in s. 166(4) omitted (28.11.2011) by virtue of Double Jeopardy (Scotland) Act 2011 (asp 16) , s. 17(3) , **Sch. para. 33(b)(iii)** ; S.S.I. 2011/365 , art. 3
- F6** S. 166(4)(c) and word inserted (28.11.2011) by Double Jeopardy (Scotland) Act 2011 (asp 16) , s. 17(3) , **Sch. para. 33(b)(iv)** ; S.S.I. 2011/365 , art. 3
- F7** Words in s. 166(5) substituted (28.11.2011) by Double Jeopardy (Scotland) Act 2011 (asp 16) , s. 17(3) , **Sch. para. 33(c)** ; S.S.I. 2011/365 , art. 3
- F8** Words in s. 166(6) inserted (28.11.2011) by Double Jeopardy (Scotland) Act 2011 (asp 16) , s. 17(3) , **Sch. para. 33(d)(i)** ; S.S.I. 2011/365 , art. 3
- F9** Words in s. 166(6) substituted (28.11.2011) by Double Jeopardy (Scotland) Act 2011 (asp 16) , s. 17(3) , **Sch. para. 33(d)(ii)** ; S.S.I. 2011/365 , art. 3
- F10** Words in s. 166(7) substituted (28.11.2011) by Double Jeopardy (Scotland) Act 2011 (asp 16) , s. 17(3) , **Sch. para. 33(e)(i)** ; S.S.I. 2011/365 , art. 3
- F11** Words in s. 166(7) substituted (28.11.2011) by Double Jeopardy (Scotland) Act 2011 (asp 16) , s. 17(3) , **Sch. para. 33(e)(ii)** ; S.S.I. 2011/365 , art. 3
- F12** S. 166(8) substituted (28.11.2011) by Double Jeopardy (Scotland) Act 2011 (asp 16) , s. 17(3) , **Sch. para. 33(f)** ; S.S.I. 2011/365 , art. 3

Commencement Information

- I1** S. 166 in force at 6.6.2011 by S.S.I. 2011/178 , art. 2 , **Sch.** (with Sch.)

Changes to legislation:

There are currently no known outstanding effects for the Criminal Justice and Licensing (Scotland) Act 2010, Section 166.