

# **CRIMINAL PROCEEDINGS ETC. (REFORM) (SCOTLAND) ACT 2007**

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## **EXPLANATORY NOTES**

### **INTRODUCTION**

#### **Part 2 - Proceedings**

#### **Summary procedure**

##### ***Section 12: Disclosure of convictions***

78. This section amends the 1995 Act in relation to the disclosure of previous convictions in summary proceedings by inserting two new sections into that Act.

##### **New section 166A**

79. Section 166A as inserted into the 1995 Act provides that the court may take account of any convictions acquired by the accused between the date of the offence before the court and the date of conviction. The prosecutor is required to provide a notice of such convictions to the court. Either the accused must admit these convictions or they must be proved by the prosecutor. Presently only convictions acquired by an accused prior to the date of the offence on the complaint can be taken into account by the court.

##### **New Section 166B**

80. Subsection (1) of section 166B borrows from and extends the existing provisions of section 166 of the 1995 Act. It provides that a complaint may contain, and evidence may be led in respect of charges, notwithstanding that the charges, or evidence, may disclose the fact that the accused has previous convictions. The prosecutor presently in proceedings is restricted as to how s/he may make it known to the court that the accused has been previously convicted. The prosecutor may only lead evidence of previous convictions where that fact is evidence of the charge before the court or ask questions of the accused as a witness to show that s/he has been previously convicted where s/he has given evidence that s/he is of good character.
81. Subsection (2) provides details of when previous convictions may be disclosed on complaints (where the offences relate to the same occasion, are of a similar character or form part of a course of conduct). This is a fundamental change in procedure. Presently where an accused is charged with a series of offences and one or more of these offences is due to the fact that the accused has a previous conviction it is necessary to separate those charges which disclose the conviction from the other related charges. The most common scenario is where an accused is charged with a motoring offence and it is discovered that the accused has been previously convicted and disqualified from driving. The charge of driving whilst disqualified presently requires to be included in a separate complaint from the other charges (for instance careless or drunk driving) and where the accused pleads not guilty to the charges two separate trials are required. This

*These notes relate to the Criminal Proceedings etc. (Reform) (Scotland)  
Act 2007 (asp 6) which received Royal Assent on 22 February 2007*

provision will allow all the charges to be included in one complaint and evidence in respect of all the charges to be led at one trial.