

CRIMINAL JUSTICE AND LICENSING (SCOTLAND) ACT 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 6 - Disclosure

Section 125 – Defence statements: summary proceedings

598. Unlike solemn proceedings, an accused is not obliged to lodge a defence statement in summary proceedings. This section enables him to do so however, should he wish, where a plea of not guilty is recorded against him. Importantly though, such statements require to be lodged before the accused can seek recourse to the court under section 128 to recover information he considers material to the case in terms of section 121 but which the prosecutor has not disclosed. The accused may lodge defence statements in summary cases at any time following the plea of not guilty until the conclusion of the proceedings. Subsection (6) defines when proceedings are to be taken to be concluded.
599. Subsection (2) sets out what a defence statement shall contain. Subsection (3) provides that as soon as practicable after lodging a defence statement the accused must send a copy of the statement to the prosecutor and any co-accused.
600. Under subsection (4) the prosecutor must, as soon as practicable after receiving the defence statement, review all the information that may be relevant to the case for or against the accused for the purposes of determining whether the section 121 disclosure test is satisfied. Any such information should then be disclosed.
601. Subsection (7) inserts a new provision into section 149B of the Criminal Procedure (Scotland) Act 1995 which under certain circumstances removes the requirement upon the accused to lodge notice of a special defence in terms of that section where a defence statement which sets out the special defence has already been lodged.