

CRIMINAL JUSTICE AND LICENSING (SCOTLAND) ACT 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 6 - Disclosure

Section 124 – Defence statements: solemn proceedings

594. This section provides that defence statements shall be mandatory in all solemn cases and provides the timings for lodging of such statements. Subsection (2) sets out that as soon as practicable after the prosecutor receives a copy of the defence statement, the prosecutor must review all of the information which may be relevant to the case for or against the accused of which he is aware. Having done so the prosecutor must then disclose to the accused any information which falls to be disclosed under s.121(3).
595. Subsection (3) amends the Criminal Procedure (Scotland) Act 1995 by inserting a new section 70A. That section provides that the accused must lodge a defence statement at least 14 days before the first diet in sheriff and jury proceedings, and the preliminary hearing in High Court proceedings. The information that the defence statement must contain is specified in subsection (9) of new section 70A of the Criminal Procedure (Scotland) Act 1995.
596. The new section 70A also provides that, at least 7 days before the trial diet, the accused must lodge a further statement. This statement must set out whether there has or has not been a material change in circumstances since the defence statement was lodged. If a material change has occurred, the statement must set out the details of that change and what the new position is. Further material changes must similarly be detailed in subsequent statements. Any defence statements must be lodged before the trial diet unless on cause shown the court allows otherwise. Subsection (8) requires the accused to send a copy of any defence statement to the prosecutor and any co-accused.
597. Subsection (4) amends section 78 of the Criminal Procedure (Scotland) Act 1995 by providing that where a defence statement is lodged and the defence consists of or includes a special defence the requirement under section 78 of that Act to lodge and intimate such a defence does not apply.