



Criminal Justice and Licensing (Scotland) Act 2010

2010 asp 13

PART 6

DISCLOSURE

Defence statements

125 Defence statements: summary proceedings

- (1) This section applies where—
 - (a) a plea of not guilty is recorded against an accused charged on summary complaint, and
 - (b) during the relevant period the accused lodges a defence statement.
- (2) A defence statement must set out—
 - (a) the nature of the accused's defence, including any particular defences on which the accused intends to rely,
 - (b) any matters of fact on which the accused takes issue with the prosecution and the reason for doing so,
 - (c) particulars of the matters of fact on which the accused intends to rely for the purposes of the accused's defence,
 - (d) any point of law which the accused wishes to take and any authority on which the accused intends to rely for that purpose,
 - (e) by reference to the accused's defence, the nature of any information that the accused wishes the prosecutor to disclose, and
 - (f) the reasons why the accused considers that disclosure by the prosecutor of any such information is necessary.
- (3) 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.
- (4) As soon as practicable after receiving a copy of the defence statement the prosecutor must—

Status: This is the original version (as it was originally enacted).

- (a) review all the information that may be relevant to the case for or against the accused of which the prosecutor is aware, and
 - (b) disclose to the accused any information to which section 121(3) applies.
- (5) In this section, “relevant period”, in relation to the accused, is the period—
- (a) beginning with the recording of the accused’s plea of not guilty, and
 - (b) ending with the conclusion of the proceedings to which the plea relates.
- (6) For the purposes of subsection (5), proceedings are to be taken to be concluded if—
- (a) a plea of guilty is recorded against the accused,
 - (b) the accused is acquitted,
 - (c) the proceedings against the accused are deserted simpliciter,
 - (d) the accused is convicted and does not appeal against the conviction before the expiry of the time allowed for such an appeal,
 - (e) the accused is convicted and appeals against the conviction before the expiry of the time allowed for such an appeal,
 - (f) the proceedings are deserted *pro loco et tempore* for any reason and no further trial diet is appointed, or
 - (g) the complaint falls or is for any other reason not brought to trial, the diet is not continued, adjourned or postponed and no further proceedings are in contemplation.
- (7) In section 149B of the 1995 Act (notice of defences), after subsection (2) insert—
- “(2A) Subsection (1) does not apply where—
- (a) the accused lodges a defence statement under section 125 of the Criminal Justice and Licensing (Scotland) Act 2010 (asp 13),
 - (b) the statement is lodged—
 - (i) where an intermediate diet is to be held, at or before the diet, or
 - (ii) where such a diet is not to be held, no later than 10 clear days before the trial diet, and
 - (c) the accused’s defence consists of or includes a defence to which that subsection applies.”.