



Criminal Justice and Licensing (Scotland) Act 2010

2010 asp 13

PART 6

DISCLOSURE

Defence statements

124 Defence statements: solemn proceedings

- (1) This section applies where the accused lodges a defence statement under section 70A of the 1995 Act.
- (2) As soon as practicable after the prosecutor receives a copy of the defence statement, the prosecutor must—
 - (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.
- (3) After section 70 of the 1995 Act insert—

“70A Defence statements

- (1) This section applies where an indictment is served on an accused.
- (2) The accused must lodge a defence statement at least 14 days before the first diet.
- (3) The accused must lodge a defence statement at least 14 days before the preliminary hearing.
- (4) At least 7 days before the trial diet the accused must—
 - (a) where there has been no material change in circumstances in relation to the accused’s defence since the last defence statement was lodged, lodge a statement stating that fact,

Status: This is the original version (as it was originally enacted).

- (b) where there has been a material change in circumstances in relation to the accused's defence since the last defence statement was lodged, lodge a defence statement.
- (5) If after lodging a statement under subsection (2), (3) or (4) there is a material change in circumstances in relation to the accused's defence, the accused must lodge a defence statement.
- (6) Where subsection (5) requires a defence statement to be lodged, it must be lodged before the trial diet begins unless on cause shown the court allows it to be lodged during the trial diet.
- (7) The accused may lodge a defence statement—
 - (a) at any time before the trial diet, or
 - (b) during the trial diet if the court on cause shown allows it.
- (8) As soon as practicable after lodging a defence statement or a statement under subsection (4)(a), the accused must send a copy of the statement to the prosecutor and any co-accused.
- (9) In this section, “defence statement” means a statement setting 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 requires the prosecutor to disclose, and
 - (f) the reasons why the accused considers that disclosure by the prosecutor of any such information is necessary.”.
- (4) In section 78 of the 1995 Act (special defences, incrimination, notice of witnesses etc.), after subsection (1) insert—
 - “(1A) Subsection (1) does not apply where—
 - (a) the accused lodges a defence statement under section 70A, and
 - (b) the accused's defence consists of or includes a special defence.”.