



**Isle of Man**  
**Government**

*Reiltys Ellan Vannin*



DEPARTMENT OF HOME AFFAIRS

CONSULTATION

Criminal Procedure and Investigations Bill 2014

16 June 2014



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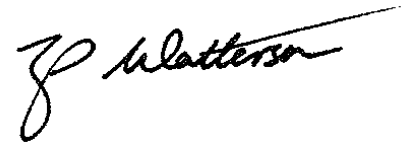
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### **Statement by the Minister for Home Affairs**

Every community has the right to expect an effective and efficient criminal justice system that constantly looks to improve the service provided at every level. In the Island we are currently looking at various aspects of how the criminal justice system works to see where legislation or processes can be updated or other general improvements made. One of the aspects, which form an integral part of any criminal proceedings where the case is to go for trial, is the duty of the prosecution to disclose any material it does not intend to rely on in evidence at trial. This is known as unused material.

The principle burden falls on the prosecution to ensure natural justice by disclosing any material on which it does not intend to rely which may either undermine its case or tend to support the case for the accused. However, it seems reasonable to require the accused, once the prosecution have made initial disclosure, to set out the basis of his or her case that they are not guilty in a statement and to set out any alibi and detail any witnesses they intend to rely on or call when the case gets to trial. On the basis of the statement of case served on it by the accused the prosecution can then see what other unused material they have or are aware of that may be relevant to the case and disclose further material to the defence on that basis. This process can then be subject to time limits and it seems to me it provides a much better way than the current non-statutory process which, certainly in some cases, appears to involve the prosecution handing over the keys to the defence team and leaving them to sift through the unused material in the possession of the prosecution.

An Impact Assessment and a copy of the draft Bill are attached to this consultation document. If you have any views on the proposals outlined within those documents, you are invited to send them to me, via the Department's Legislation Manager, at the Department of Home Affairs, 88 Woodbourne Road, Douglas, IM2 3AP, by **Tuesday 29<sup>th</sup> July 2014**. I can assure you that any views you do express will be considered with the utmost care.



Hon. Juan Watterson, BA(Hons), ACA, MHK  
Minister for Home Affairs  
16<sup>th</sup> June 2014

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## Introduction

The duty on the prosecution to disclose to the defence any material it has in its possession but does not intend to rely on in court ("unused material") has been established in common law by cases such as R-v-Ward<sup>1</sup> and R-v-Keane<sup>2</sup> for a good number of years and now needs to be updated in line with more modern practice. It is considered by the Department that a modern approach to unused material should be to place the requirement on the prosecution to disclose such material on a statutory footing. What this is intended to do is to set out a framework within which the prosecution provide initial disclosure of standard unused material items is undertaken, followed by further disclosure which reflects relevance to the case in the light of the case for the defence set out in the accused's defence statement.

It may be argued that the prosecution should hand over every single piece of unused material in their possession (or copies of the same) to the defence right from the outset. In a number of cases this might not be onerous on any party as there will be a limited amount of unused material for the prosecution to provide and for the defence to review. However, in more complex or detailed investigations there may be a great deal of material that is generated such that it may become impractical or positively unhelpful for blanket disclosure of everything in possession of the prosecution to take place. Sometimes the practice appears to have been for the prosecution simply to "hand over the keys of the warehouse" to the defence and leave them to sift through the unused material in the possession of the prosecution. It may be argued that this is perfectly proper and that all that is needed is one further development whereby the prosecution list that material in a Schedule with a summary and hand it over to the defence. However, it seems to the Department that what is really required is a statutory framework for the disclosure of all material that may assist the accused in the case he or she is putting forward as to why they are not guilty and which any reasonable person may believe might undermine the case for the prosecution. In other words, what is required is for the prosecution to fulfil its obligations by disclosing all relevant unused material to the defence. The proposed legislation is intended to achieve that objective.

One of the other benefits of this proposed legislation is that it will provide for time limits by which the court will expect either or both parties to comply with disclosure requirements (to avoid unnecessary delays) and will empower the court to stay proceedings where the prosecution fail in their obligations.

Where the defendant does not know whether or not they are guilty (for whatever reason), or are unsure as to whether or not to plead guilty then they are free, as before, to plead not guilty and put the prosecution on notice to prove their case and go through the disclosure procedure. The Department does not consider there to be any problem with this. However, if a person knows they are guilty they will not need full disclosure of unused material to help them make their plea and should continue to plead guilty at the earliest opportunity<sup>3</sup> as they currently do so now.

In summary, the purpose of the Bill is to provide a statutory basis for a more efficient, effective and timely disclosure process.

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<sup>1</sup>[1993] 1 WLR 619, 96 Cr App Rep 1, [1993] 2 All ER 577, COURT OF APPEAL (CRIMINAL DIVISION).

<sup>2</sup>[1994] 1 WLR 746

<sup>3</sup>If a person knows they are guilty as charged and make their intention to plead guilty known at an early stage this can speed up the determination of their case significantly and may result in a discount on the sentence they might otherwise have received from the court.

## SUMMARY OF THE BILL

### PART 1 — INTRODUCTORY

**Clauses 1 and 2** give the title of the Bill and state that the Act will come into operation on a day, or days, determined by the Department. Different provisions within the Act may be brought into operation on different days.

Subsection (3) of Clause 2 clarifies further that the Department may apply the legal framework only to trials that are to take place in the Court of General Gaol Delivery or only to trials in the Summary Court or to cases of a certain description. The exact mode of implementation will be determined after consultation with those involved in the criminal justice process. The purpose of this permissive provision is to enable the disclosure provisions to be applied in such a way as to ensure the smooth transition from current practice to that regulated by this Bill. Of course if, after consultation, parties consider the Act should be applied to all cases set down for trial, irrespective of their jurisdiction or class then the Act could be applied to all trials of any description at once.

#### QUESTION 1:

The Department is aware of two views. The first is that it would be helpful, to ensure the smooth transition from common law disclosure to these statutory provisions, if the Bill was applied in stages with the first stage applying the provisions only to cases at and from committal for trial in the Court of General Gaol Delivery and later stages to trials in the Summary Courts also. If you do not think this approach is correct it would be helpful to receive your reasons why.

Alternatively, if you think this approach is correct it would be helpful to know why.

The second view is that this Bill should be applied immediately to all cases that are to go for trial, whether in the Summary Courts or in the Court of General Gaol. If you do not think the Bill should be applied in this way it would be helpful to know why and to receive your suggestions as to how the Bill can be introduced smoothly and effectively.

Alternatively, if you think this second approach is correct it would be helpful to know why.

### PART 2 — DISCLOSURE & PART 3 – CRIMINAL INVESTIGATIONS

**Clause 3** states that the provisions in this Part apply to any person who has pleaded not guilty and is to undergo a criminal trial. The clause provides transitional arrangements so the legal framework will only apply to investigations begun after the provisions have been applied to the relevant class or type of case. Of course the police and the prosecutors should, as best practice, be following the principles outlined in this Bill in relation to every investigation of an alleged offence irrespective of the class or description of case.

**Clause 4 (Initial duty of prosecutor to disclose)** sets out the initial duty of the prosecutor to disclose any information it has not already disclosed to the accused following charge, which might reasonably be considered capable of undermining the prosecution case or assisting the case for the accused. Effectively this material is known as “unused material” or “prosecution unused material”. If there is no such material the prosecution must give the accused a written statement to that effect.

The clause defines this material and includes material that may not be in the prosecution’s possession but where that material has been inspected by the prosecution. Unused material must be secured by the prosecution and made available so it may be inspected by the accused (and/or the legal representative of the accused). The clause deals with circumstances where material must not be disclosed either for public interest (public interest immunity or PII) reasons or relating to material prohibited under the Interception of Communications Act 1988. The prosecution must act within a period as set out in regulations made under clause 14. If the prosecution fails in its

disclosure duties under this or subsequent clauses either to do what it is required to do or to do so within set time limits then clause 12 applies.

**Clause 5 (Disclosure by accused)** applies where the prosecutor has complied with his or her obligations under clause 4 and provides for two types of disclosure of defence case. Subsection (1) requires the accused to give a statement of case to the court, the prosecutor and any other involved party where the prosecution has also supplied the accused with documents containing evidence of the case to be made against the accused. The second type set out in subsection (2) says that where the prosecution has, or purports to have, provided initial disclosure of unused material but has not yet supplied the bundle of evidence against the accused, he or she may nevertheless provide the prosecutor and the court with a defence statement (in other words, the accused may make a voluntary disclosure of their case). Subsection (3) sets out a time limit for the disclosure of the defence statement and subsection (4) sets out what constitutes a defence statement. Subsections (5) and (6) are about alibis that may be disclosed by the defence statement and the last two subsections are about regulations.

## **QUESTION 2:**

This Clause provides for two types of disclosure by the defence of their case. The first is compulsory and applies where the prosecution have not only disclosed unused material but also the evidence upon which the case against the accused is based. The second is voluntary disclosure of the case by the defence where the prosecution have disclosed unused material but not yet handed over the evidence upon which the case against the accused is based.

Do you think it is useful, or helpful, to provide for two types of disclosure or should there only be provision for compulsory disclosure of the defence case? It would be helpful to receive your reasons for your position.

**Clause 6 (Updated disclosure by accused)** requires the defence to keep the disclosure of the case it intends to rely on at trial up to date and give that updated information to the prosecutor and to the court or inform the other parties within the period set out in clause 14 or that there are no changes to the defence statement.

**Clause 7** is about the defence informing the court and the prosecution of its intention to call witnesses.

**Clause 8** requires the defence to notify the court and the prosecution of any expert witness they intend to use.

**Clauses 7 and 8** are about ensuring all parties are aware of witness requirements in respect of the defence.

**Clause 9** states that where the accused's advocate gives the statement/s under clauses 5 or 6 it is assumed the statement/s come with the authority of the accused.

If the defence fail to comply with requirements in clauses 5, 6, or 7 and there is a risk that inferences may be drawn by the court or the jury then the court must warn the accused accordingly.

**Clause 10** places the prosecution under a continuing obligation to keep the material in its possession under review with a view to disclosure in a timely fashion. This means that even though the prosecution will have complied with the disclosure requirements imposed on it under clause 4, the duty of the prosecution to keep the material in its possession under review continues throughout the criminal justice process and if at any time it is aware of any further material that might reasonably be considered capable of undermining its case or assisting the defence case it is legally required to disclose that material. There are at least two ways this material might come to the attention of the prosecutor. It may be that in the light of the disclosure by the defence of their statement of case it is clear certain material in the possession of the prosecution that was not initially thought to be relevant is now seen to be relevant unused material. Alternatively in the

light of continuing investigation and perhaps further work consequent on the disclosure of further witnesses by the defence other unused material comes to light.

**Clause 11 (Application by accused for disclosure)** applies where the accused has given a defence statement under clauses 5 or 6 and the prosecution has either complied/purported to comply, or indeed failed to comply, with the continuing obligation to disclose unused material to the defence established under clause 10. If the defence believes, or has reasonable cause to believe, the prosecution has further relevant material it may apply to the court for an order requiring the prosecution to disclose it.

**Clause 12 (Prosecutor's failure to observe time limits)** makes provision where the prosecution fails to act under clause 4 or clause 10 or to observe time limits by noting such failure may provide grounds to stay proceedings.

**Clause 13 (Faults in disclosure)** applies in relation to the defence statement, alibi and witness notices. Where a defence statement is inconsistent or the defence is at variance with the defence statement, alibi or witness notice, the court or the jury may draw such an inference from the changed defence case as they see fit. There are a number of safeguards which would take into account minor changes or provide for the court to take into account any other reason put forward for the change in the defence position.

### **QUESTION 3:**

Clauses 12 and 13 outline consequences for the prosecution and the defence if either fails to comply with any obligation set out in this Bill. Do you think those consequences are too weak or, on the other hand, too severe. If so, please explain why and set out what consequences you think should flow from a failure on the part of either the prosecution or the defence to comply with any or all of their obligations (including complying in a timely fashion)?

**Clause 14 (Time limits)** imposes a responsibility on the Department of Home Affairs to make regulations setting the time periods within which the various elements of disclosure must be made. The time periods will be a matter for consultation amongst the parties prior to the regulations being made and the Department will have regard to the need to ensure disclosure aids the expeditious progression of cases to trial and/or final completion.

As indicated, for example, in clauses 12 and 13 the failure to meet time periods may render either party liable to give account for that failure to the court and may have more serious consequences.

### **QUESTION 4:**

What time limits do you think the Department should specify in the regulations? (7 days? 14 days? or different periods for different parts of the process?)

**Clause 15 (Public interest)** relates to cases where material has not been disclosed in the public interest (PII) and gives the defence another opportunity to ask the court to review the question of whether it is still not in the public interest to disclose certain material. Obviously this must be done before the accused is convicted, acquitted or the prosecution decides to abandon the case in question.

**Clause 16 (Confidentiality)** is about securing the confidentiality of documents or other objects that the defence may be given or allowed to inspect. Clearly, where the document has already been referred to or displayed in open court or the contents have been communicated to the public in open court then the information or object may be used or disclosed by the accused.

**Clause 17 (Rules of Court)** refers to powers to make rules under section 91 of the Summary Jurisdiction Act 1991 and **Clause 18** relates to other rules about disclosure.



**Clauses 19 and 20 (Codes of practice)** provide for the Department to make codes of practice relating to the conduct of interviews by police of persons revealed in a defence statement or in a notice issued by the accused of witnesses and in relation to the conduct of criminal investigations including the handling of material relevant to the investigation. **Clause 21** is supplementary in relation to codes.

**Clause 22** deals with common law rules as to criminal investigations.

### **Feedback to the consultation**

The draft of the Bill has been prepared for the purposes of consultation. Further refinement of the layout and content of the Bill may be undertaken in the light of the responses to the consultation.

If you have any views or observations, or there is some point of clarification you would like to receive, you are invited to respond either by writing to —

Tom Bateman, Legislation Manager  
Department of Home Affairs  
"Homefield", 88 Woodbourne Road  
Douglas, IM2 3AP

or by emailing [dhaconsultation@gov.im](mailto:dhaconsultation@gov.im)

The closing date for the receipt of comments is **Tuesday 29<sup>th</sup> July 2014**.

Unless specifically requested otherwise, any responses received may be published either in part or in their entirety, together with the name of the person or body which submitted the response. If you are responding on behalf of a group it would be helpful to make your position clear. To ensure that the process is open and honest responses can only be accepted if you provide your name with your response.

It may be useful, when giving your feedback, to make reference to the number and title of the specific provision(s) set out in the Bill that you wish to discuss.

The purpose of consultation is not to be a referendum but an information, views and evidence gathering exercise from which to take an informed decision on the content of proposed legislation or policy. In any consultation exercise the responses received do not guarantee changes will be made to what has been proposed.

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## **Impact Assessment**

**IMPACT ASSESSMENT OF:** **Criminal Procedure and Investigations Bill 2014**  
**DEPARTMENT:** **Home Affairs**  
**DATE:** **13/06/2014**  
**VERSION NUMBER:** **03**

Responsible Officer: Tom Bateman, Legislation Manager

E-mail Address: [tom.bateman@gov.im](mailto:tom.bateman@gov.im)

Telephone number: 694305

### **SUMMARY: INTERVENTION AND OPTIONS**

**What is the Bill intended to do:** To place the disclosure of prosecution "unused material" to the defence and other parties in a trial on a statutory basis.

**Nature of problem:** The disclosure of material upon which the prosecution does not intend to rely (either because it does not assist their case or is superfluous) is important for justice because sometimes that material is not used as it tends to undermine the prosecution case or contains material that would support the defence case if the defence knew about it. In the absence of statute law the disclosure of prosecution unused material has been undertaken on the basis of established practice and case law<sup>4</sup>. The problem is that there is no statutory framework setting out what material should be disclosed, when and on what basis.

**Purpose of Proposal:** The purpose of the proposed Bill is to provide a statutory framework for the prosecution, defence and the courts to use in order to secure the timely and full disclosure to the accused person of all relevant material upon which the prosecution does not intend to rely in bringing a case against that person at trial in Court.

#### **Means by which it is to be achieved**

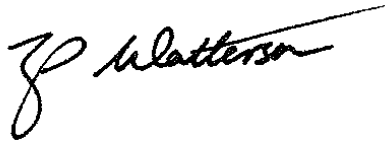
**Option 1:** The draft Bill is not progressed.

The Department considered the matter carefully. It concluded the absence of a clear statutory process in a matter as important to justice as the proper and full disclosure of all relevant material to the accused is, in the 21<sup>st</sup> century, unsatisfactory, and would remain so if the Bill is not progressed.

**Option 2: (preferred option):** Promote a Bill providing for the disclosure of prosecution unused material to be a legal requirement. The Bill will empower the setting of time limits for each party to play their part in disclosure to the other party and ensure that the obligation to disclose is a continuing obligation. The Department believes a statutory process will prove to be a positive step in developing the Island's legislation so that this aspect of the criminal justice process has a clear statutory basis.

<sup>4</sup>R-v-Ward and R-v-Keane are referenced as footnotes 1 and 2 on page 3 of the consultation document. R-v-Ward was a 1970s terrorism related case that was referred by the Home Secretary in 1991 for review by the UK Court of Appeal and revealed failings in the prosecution's duty to disclose. R-v-Keane is a more commonly cited case where the prosecution's failure to make proper disclosure was cited and both cases, along with others, resulted in a fuller understanding among the parties as to what the prosecution is required to disclose.

**Ministerial sign off for Options stage** I have read the Impact Assessment and I am satisfied that given the available information, it represents a reasonable view of the likely costs and impact of the preferred option.



*Hon. Juan Watterson, BA(Hons), ACA, MHK  
Minister for Home Affairs*

*13<sup>th</sup> June 2014*

## **SUMMARY: ANALYSIS AND EVIDENCE**

### IMPACT OF PROPOSAL

#### **Resource Issues - Financial (including personnel):**

**Statement:** The Bill is not designed to increase or reduce the expenditure of Government.

**Likely Financial Benefits One Off:** None.

**Estimated Average Annual savings (excluding one off):** None.

#### **Are there any costs or benefits that are not financial i.e. social:**

The Bill is designed to provide a statutory framework for the disclosure of unused material. It is considered the process set out in the legislation will enable all parties to be better able to fulfil their obligations and play their part in ensuring free and fair trials of accused persons.

**Has Treasury Concurrence been given for the preferred option?:** Treasury concurrence has not been, and will not be, sought as the Bill is not designed to increase or reduce the expenditure of Government.

#### **Key Assumptions:**

The key assumption is that providing a statutory framework for the fulfilment of disclosure obligations will result in better disclosure of relevant unused material in a more timely fashion than may be the case at present. If these aims are fulfilled the Department considers it reasonable to assume the interests of justice will be further promoted.

#### **Approximate date for legislation to be implemented if known:**

Subject to responses to the consultation exercise and Council of Ministers authority, it is envisaged that the Bill will be introduced into the Branches in the latter quarter of 2014.

#### **Link to Agenda For Change:**

Protect the vulnerable; good government.

#### **Link to Department Aims and Objectives:**

Ensure the delivery of the Department of Home Affairs' Bills in accordance with the legislative programme and compliance with the Island's international obligations.

## **SUMMARY: CONSULTATION**

**Consultation in line with Government standard consultation process:** Yes.

**Statement:** The consultation will be carried out on the draft Bill from 16<sup>th</sup> June 2014 over a period of six weeks. Copies of the consultation document and draft Bill are available from the Department's Legislation Manager by emailing: [tom.bateman@gov.im](mailto:tom.bateman@gov.im)





# CRIMINAL PROCEDURE AND INVESTIGATIONS BILL 2014

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# CRIMINAL PROCEDURE AND INVESTIGATIONS BILL 2014

A **BILL** to make provision about criminal procedure and criminal investigations.

**BE IT ENACTED** by the Queen's Most Excellent Majesty, by and with the advice and consent of the Council and Keys in Tynwald assembled, and by the authority of the same, as follows:—

## PART 1 – INTRODUCTORY

### 1 Short title

The short title of this Act is the Criminal Procedure and Investigations Act 2014.

### 2 Commencement

- (1) This Act (apart from this section and section 1) comes into operation on such day or days as the Department of Home Affairs may by order appoint and different days may be appointed for different purposes of this Act.
- (2) An order under subsection (1) may make such transitional and saving provisions as the Department of Home Affairs considers necessary or expedient.
- (3) Without limiting this section or any other statutory provision, an order under subsection (1) may provide for the Act (or a provision of it) to come into operation on different days in relation to —
  - (a) cases (or classes of cases) where an accused is to be tried by a Court of General Gaol Delivery (and appeals in respect of those cases); and
  - (b) cases (or classes of cases) to be tried summarily (and appeals in respect of those cases).

## PART 2 – DISCLOSURE

### 3 Application

P1996/25/1

- (1) This Part applies –
  - (a) where an accused who has pleaded not guilty is to undergo a criminal trial; and
  - (b) in relation to alleged offences into which no criminal investigation has begun before the commencement of this section.
- (2) For the purposes of this section a criminal investigation is an investigation that police officers or other persons have a duty to conduct with a view to its being ascertained –
  - (a) whether a person should be charged with an offence, or
  - (b) whether a person charged with an offence is guilty of it.

### 4 Initial duty of prosecutor to disclose

P1996/25/3&4

- (1) The prosecutor must –
  - (a) disclose to the accused any prosecution material –
    - (i) that has not previously been disclosed to the accused; and
    - (ii) that might reasonably be considered capable of undermining the case for the prosecution against the accused or of assisting the case for the accused; or
  - (b) give to the accused a written statement that there is no material of a description mentioned in paragraph (a).
- (2) For the purposes of this section prosecution material is material –
  - (a) that is in the prosecutor's possession, and came into that possession in connection with the case for the prosecution against the accused; or
  - (b) that, in pursuance of a code operative under section 20, the prosecutor has inspected in connection with the case for the prosecution against the accused.
- (3) In the case of material consisting of information recorded in any form, the prosecutor discloses it for the purposes of this section –
  - (a) by securing that a copy is made of it and that the copy is given to the accused; or
  - (b) if the prosecutor thinks that is not practicable or not desirable, by allowing the accused to inspect it at a reasonable time and a reasonable place or by taking steps to secure that the accused is allowed to do so,

and a copy may be in such form as the prosecutor thinks fit and need not be in the same form as that in which the information has already been recorded.

- (4) In the case of material consisting of information that has not been recorded, the prosecutor discloses it for the purposes of this section by securing that it is recorded in such form as the prosecutor thinks fit and —
  - (a) by securing that a copy is made of it and that the copy is given to the accused; or
  - (b) if the prosecutor thinks that is not practicable or not desirable, by allowing the accused to inspect it at a reasonable time and a reasonable place or by taking steps to secure that the accused is allowed to do so.
- (5) In the case of material not consisting of information, the prosecutor discloses it for the purposes of this section by allowing the accused to inspect it at a reasonable time and a reasonable place or by taking steps to secure that the accused is allowed to do so.
- (6) Material must not be disclosed under this section to the extent that the court, on an application by the prosecutor, concludes it is not in the public interest to disclose it and orders accordingly.
- (7) Material must not be disclosed under this section to the extent that it is material the disclosure of which is prohibited by section 1 of the *Interception of Communications Act 1988*.
- (8) The prosecutor must act under this section during the period which, by virtue of section 14 is the relevant period for this section.
- (9) Where, before acting under this section, the prosecutor was given a document in pursuance of a code made under section 20, the prosecutor must give the document to the accused at the same time as acting under this section.

## 5 Disclosure by accused

P1996/25/5, 6&6A

- (1) Where —
  - (a) the prosecutor complies or purports to comply with section 4; and
  - (b) copies of documents containing evidence have been given to the accused,

the accused must give a defence statement to the court, the prosecutor and any other party.
- (2) Where the prosecutor complies or purports to comply with section 4 the accused —
  - (a) may give a defence statement to the prosecutor; and

- (b) if he or she does so, must also give such a statement to the court.
- (3) An accused who gives a defence statement under subsection (2) must give it during the period which, by virtue of section 14, is the relevant period for this section.
- (4) For the purposes of this section a defence statement is a written statement –
- (a) setting out the nature of the accused’s defence, including any particular defences on which the accused intends to rely;
  - (b) indicating the matters of fact on which the accused takes issue with the prosecution;
  - (c) setting out, in the case of each such matter, why the accused takes issue with the prosecution; and
  - (d) indicating any point of law (including any point as to the admissibility of evidence or an abuse of process) which the accused wishes to take, and any authority on which he or she intends to rely for that purpose.
- (5) A defence statement that discloses an alibi must give particulars of it, including –
- (a) the name, address and date of birth of any witness the accused believes is able to give evidence in support of the alibi, or as many of those details as are known to the accused when the statement is given; and
  - (b) any information in the accused’s possession which might be of material assistance in identifying or finding any such witness in whose case any of the details mentioned in paragraph (a) are not known to the accused when the statement is given.
- (6) For the purposes of this section evidence in support of an alibi is evidence tending to show that by reason of the presence of the accused at a particular place or in a particular area at a particular time he or she was not, or was unlikely to have been, at the place where the offence is alleged to have been committed at the time of its alleged commission.
- (7) The Department of Home Affairs may by regulations make provision as to the details of the matters that, by virtue of subsection (4), are to be included in defence statements.
- (8) Regulations under this section shall not have effect unless approved by Tynwald.

## 6 Updated disclosure by accused

P1996/25/6B

- (1) Where the accused has, before the beginning of the relevant period for this section, given a defence statement under section 5, he or she must during that period give to the court and the prosecutor either –

- (a) a defence statement under this section (an “updated defence statement”); or
  - (b) a statement of the kind mentioned in subsection (4).
- (2) The relevant period for this section is determined under section 14.
  - (3) An updated defence statement must comply with the requirements imposed by or under section 5 by reference to the state of affairs at the time when the statement is given.
  - (4) Instead of an updated defence statement, the accused may give a written statement stating that he or she has no changes to make to the defence statement that was given under section 5.
  - (5) Where there are other accused in the proceedings and the court so orders, the accused must also give either an updated defence statement or a statement of the kind mentioned in subsection (4), within such period as may be specified by the court, to each other accused so specified.
  - (6) The court may make an order under subsection (5) either of its own motion or on the application of any party.

## **7 Notification of intention to call defence witnesses**

P1996/25/6C

- (1) The accused must give to the court and the prosecutor a notice indicating whether he or she intends to call any persons (other than himself or herself) as witnesses at trial and, if so —
  - (a) giving the name, address and date of birth of each such proposed witness, or as many of those details as are known to the accused when the notice is given; and
  - (b) providing any information in the accused’s possession which might be of material assistance in identifying or finding any such proposed witness in whose case any of the details mentioned in paragraph (a) are not known to the accused when the notice is given.
- (2) Details do not have to be given under this section to the extent that they have already been given under section 5(5).
- (3) The accused must give a notice under this section during the period which, by virtue of section 14, is the relevant period for this section.
- (4) If, following the giving of a notice under this section, the accused —
  - (a) decides to call a person (other than himself or herself) who is not included in the notice as a proposed witness, or decides not to call a person who is so included; or

- (b) discovers any information which, under subsection (1), he or she would have had to include in the notice if aware of it when giving the notice,

the accused must give an appropriately amended notice to the court and the prosecutor.

## **8 Notification of names of experts instructed by accused**

P1996/25/6D

- (1) If the accused instructs a person with a view to the person providing any expert opinion for possible use as evidence at the trial of the accused, the accused must give to the court and the prosecutor a notice specifying the person's name and address.
- (2) A notice does not have to be given under this section specifying the name and address of a person whose name and address have already been given under section 7.
- (3) A notice under this section must be given during the period which, by virtue of section 14, is the relevant period for this section.

## **9 Disclosure by accused: further provisions**

P1996/25/6E(1)&(2)

- (1) Where an accused's advocate purports to give on behalf of the accused —
  - (a) a defence statement under section 5 or 6; or
  - (b) a statement of the kind mentioned in section 6(4),unless the contrary be proved, the statement is taken to be given with the authority of the accused.
- (2) If it appears to the court at any hearing taking place before the trial that an accused has failed to comply fully with section 5, 6 or 7, so that there is a possibility of comment being made or inferences drawn under section 13(5), the court must warn the accused accordingly.

## **10 Continuing duty of prosecutor to disclose**

P1996/25/7A

- (1) This section applies at all times —
  - (a) after the prosecutor has complied or purported to comply with section 4; and
  - (b) before the accused is acquitted or convicted or the prosecutor decides not to proceed with the case concerned.
- (2) The prosecutor must keep under review the question whether at any given time (and, in particular, following the giving of a defence statement) there is prosecution material that —

- (a) might reasonably be considered capable of undermining the case for the prosecution against the accused or of assisting the case for the accused; and
  - (b) has not been disclosed to the accused.
- (3) If at any time there is any such material as is mentioned in subsection (2) the prosecutor must disclose it to the accused as soon as is reasonably practicable (or within the period mentioned in subsection (5)(a), where that applies).
- (4) In applying subsection (2) by reference to any given time the state of affairs at that time (including the case for the prosecution as it stands at that time) must be taken into account.
- (5) Where the accused gives a defence statement under section 5 or 6 —
  - (a) if as a result of that statement the prosecutor is required by this section to make any disclosure, or further disclosure, the prosecutor must do so during the period which, by virtue of section 14, is the relevant period for this section; and
  - (b) if the prosecutor considers that he or she is not so required, the prosecutor must during that period give to the accused a written statement to that effect.
- (6) For the purposes of this section prosecution material is material —
  - (a) in the prosecutor's possession that came into the prosecutor's possession in connection with the case for the prosecution against the accused; or
  - (b) which, in pursuance of a code operative under section 20, the prosecutor has inspected in connection with the case for the prosecution against the accused.
- (7) Subsections (3) to (5) of section 4 (method by which prosecutor discloses) apply for the purposes of this section as they apply for the purposes of that section.
- (8) Material must not be disclosed under this section to the extent that the court, on an application by the prosecutor, concludes it is not in the public interest to disclose it and orders accordingly.
- (9) Material must not be disclosed under this section to the extent that it is material the disclosure of which is prohibited by section 1 of the *Interception of Communications Act 1988*.

## 11 Application by accused for disclosure

P1996/25/8

- (1) This section applies where —
  - (a) the accused has given a defence statement under section 5 or 6; and

- (b) the prosecutor has complied with section 10(5), has purported to comply with it or has failed to comply with it.
- (2) If the accused has at any time reasonable cause to believe that there is prosecution material required by section 10 to be disclosed to the accused that has not been, he or she may apply to the court for an order requiring the prosecutor to so disclose it.
- (3) For the purposes of this section prosecution material is material —
  - (a) that is in the prosecutor's possession and came into the prosecutor's possession in connection with the case for the prosecution against the accused;
  - (b) that, in pursuance of a code made under section 20, the prosecutor has inspected in connection with the case for the prosecution against the accused; or
  - (c) that falls within subsection (4).
- (4) Material falls within this subsection if in pursuance of a code made under section 20 the prosecutor is entitled, on request, to a copy of it or the opportunity to inspect it in connection with the case for the prosecution against the accused.
- (5) Material must not be disclosed under this section to the extent that the court, on an application by the prosecutor, concludes it is not in the public interest to disclose it and orders accordingly.
- (6) Material must not be disclosed under this section to the extent that it is material the disclosure of which is prohibited by section 1 of the *Interception of Communications Act 1988*.

## 12 Prosecutor's failure to observe time limits

P1996/25/10

- (1) This section applies if the prosecutor purports to act under section 4 or section 10(5) after the end of the period which, by virtue of section 14, is the relevant period for section 4 or 10 as the case may be.
- (2) The failure to act during such period will constitute grounds for staying the proceedings for abuse of process —
  - (a) unless the prosecution can show good and sufficient cause for the delay; or
  - (b) if the failure prevents the accused having a fair trial.

## 13 Faults in disclosure by accused

P1996/25/11

- (1) This section applies in the 3 cases set out in subsections (2), (3) and (4).
- (2) The first case is where section 5 applies and the accused —
  - (a) fails to give an initial defence statement;



- (b) gives an initial defence statement but does so after the end of the period which, by virtue of section 14, is the relevant period for section 5;
  - (c) is required by section 6 to give either an updated defence statement or a statement of the kind mentioned in subsection (4) of that section but fails to do so;
  - (d) gives an updated defence statement or a statement of the kind mentioned in section 6(4) but does so after the end of the period which, by virtue of section 14, is the relevant period for section 6;
  - (e) sets out inconsistent defences in the accused's defence statement, or
  - (f) at trial —
    - (i) puts forward a defence which was not mentioned in his or her defence statement or is different from any defence set out in that statement;
    - (ii) relies on a matter, or any particular of a matter, of fact that was not mentioned in his or her defence statement in breach of the requirements imposed by or under section 6;
    - (iii) adduces evidence in support of an alibi without having given particulars of the alibi in his or her defence statement; or
    - (iv) calls a witness to give evidence in support of an alibi without having complied with section 5(5)(a) or (b) as regards the witness in his defence statement.
- (3) The second case is where section 5(2) applies, the accused gives an initial defence statement, and —
- (a) does so after the end of the period which, by virtue of section 14, is the relevant period for section 5; or
  - (b) does any of the things mentioned in paragraphs (c) to (f) of subsection (2).
- (4) The third case is where the accused —
- (a) gives a witness notice but does so after the end of the period which, by virtue of section 14, is the relevant period for section 7; or
  - (b) at his or her trial calls a witness (other than himself or herself) not included, or not adequately identified, in a witness notice.
- (5) Where this section applies —
- (a) the court or any other party may make such comment as appears appropriate;
  - (b) the court or jury may draw such inferences as appear proper in deciding whether the accused is guilty of the offence concerned.

- (6) Where —
- (a) this section applies by virtue of subsection (2)(f)(ii) (including that provision as it applies by virtue of subsection (3)(b)); and
  - (b) the matter which was not mentioned is a point of law (including any point as to the admissibility of evidence or an abuse of process) or an authority,
- comment by another party under subsection (5)(a) may be made only with the leave of the court.
- (7) Where this section applies by virtue of subsection (4), comment by another party under subsection (5)(a) may be made only with the leave of the court.
- (8) Where the accused puts forward a defence that is different from any defence set out in his or her defence statement, in doing anything under subsection (5) or in deciding whether to do anything under it the court must have regard —
- (a) to the extent of the differences in the defences; and
  - (b) to whether there is any justification for it.
- (9) Where the accused calls a witness whom he or she has failed to include, or to identify adequately, in a witness notice, in doing anything under subsection (5) or in deciding whether to do anything under it the court shall have regard to whether there is any justification for the failure.
- (10) A person cannot be convicted of an offence solely on an inference drawn under subsection (5).
- (11) Where the accused has given a statement of the kind mentioned in section 6(4), then, for the purposes of subsections (2)(f)(ii) and (iv), the question as to whether there has been a breach of the requirements imposed by or under section 5 or a failure to comply with section 5(5)(a) or (b) shall be determined —
- (a) by reference to the state of affairs at the time when that statement was given; and
  - (b) as if the defence statement was given at the same time as that statement.
- (12) In this section —
- (a) “initial defence statement” means a defence statement given under section 5;
  - (b) “updated defence statement” means a defence statement given under section 6;
  - (c) a reference simply to an accused’s “defence statement” is a reference —
    - (i) where the accused has given only an initial defence statement, to that statement;

- (ii) where the accused has given both an initial and an updated defence statement, to the updated defence statement;
- (iii) where the accused has given both an initial defence statement and a statement of the kind mentioned in section 6(4), to the initial defence statement;
- (d) a reference to evidence in support of an alibi shall be construed in accordance with section 5(6); and
- (e) “witness notice” means a notice given under section 7.

## 14 Time limits

P1996/25/12&13

- (1) This section has effect for the purpose of determining the relevant period for sections 4(8), 5(3), 6(2), 7(3), 8(3) and 10(5).
- (2) Subject to subsection (4), the relevant period is a period beginning and ending with such days as the Department of Home Affairs prescribes by regulations for the purposes of the section concerned.
- (3) Regulations under this section must be laid before Tynwald as soon as practicable after they are made.
- (4) The regulations may do one or more of the following –
  - (a) provide that the relevant period for any section shall if the court so orders be extended (or further extended) by so many days as the court specifies;
  - (b) provide that the court may make such an order only if an application is made by a prescribed person and if any other prescribed conditions are fulfilled;
  - (c) provide that an application may be made only if prescribed conditions are fulfilled;
  - (d) provide that the number of days by which a period may be extended are entirely at the court’s discretion;
  - (e) provide that the number of days by which a period may be extended must not exceed a prescribed number;
  - (f) provide for no limit on the number of applications that may be made to extend a period;
  - (g) provide that no more than a prescribed number of applications may be made to extend a period,and references to the relevant period for a section shall be construed accordingly.
- (5) Conditions mentioned in subsection (4) may be framed by reference to such factors as the Department of Home Affairs thinks fit.

- (6) Without limiting the generality of subsection (5), so far as the relevant period for the provisions mentioned in subsection (1) is concerned —
- (a) conditions may be framed by reference to the nature or volume of the material concerned; and
  - (b) the nature of material may be defined by reference to the prosecutor's belief that the question of non-disclosure on grounds of public interest may arise.
- (7) As regards a case in relation to which no regulations under this section have come into operation for the purposes of section 4, section 4(8) shall have effect as if it read —
- “(8) The prosecutor must act under this section as soon as is reasonably practicable after the accused pleads not guilty.”.
- (8) As regards a case in relation to which no regulations under this section have come into operation for the purposes of section 10, section 10(5) shall have effect as if —
- (a) in paragraph (a) for the words from “during the period” to the end, and
  - (b) in paragraph (b) for “during that period”,
- there were substituted “as soon as is reasonably practicable after the accused gives the statement in question”.
- (9) In subsection (4) “prescribed” means prescribed by regulations under this section.

## 15 Public interest

P1996/25/14&16

- (1) At any time —
- (a) after a court makes an order under section 4(6), 10(8) or 11(5); and
  - (b) before the accused is acquitted or convicted or the prosecutor decides not to proceed with the case concerned,
- the accused may apply to the court for a review of the question whether it is still not in the public interest to disclose material affected by its order.
- (2) In such a case the court must review that question, and if it concludes that it is in the public interest to disclose material to any extent —
- (a) it must so order; and
  - (b) it must take such steps as are reasonable to inform the prosecutor of its order.
- (3) Where the prosecutor is informed of an order made under subsection (2) the prosecutor must act accordingly having regard to this Part (unless he or she decides not to proceed with the case concerned).

- (4) Where —
- (a) an application is made under section 4(6), 10(8), 11(5) or subsection (1) of this section;
  - (b) a person claiming to have an interest in the material applies to be heard by the court, and
  - (c) the person shows that he or she was involved (whether alone or with others and whether directly or indirectly) in the prosecutor's attention being brought to the material,

the court must not make an order under any of those sections unless the person applying under paragraph (b) has been given an opportunity to be heard.

## 16 Confidentiality

P1996/25/17&18

- (1) If the accused is given or allowed to inspect a document or other object under —
- (a) section 4, 10 or 15; or
  - (b) an order under section 11,
- then, subject to subsections (2) to (4), the accused must not use or disclose it or any information recorded in it.
- (2) The accused may use or disclose the object or information —
- (a) in connection with the proceedings for whose purposes he or she was given the object or allowed to inspect it;
  - (b) with a view to the taking of further criminal proceedings (for instance, by way of appeal) with regard to the matter giving rise to the proceedings mentioned in paragraph (a); or
  - (c) in connection with the proceedings first mentioned in paragraph (b).
- (3) The accused may use or disclose —
- (a) the object to the extent that it has been displayed to the public in open court; or
  - (b) the information to the extent that it has been communicated to the public in open court,
- but the preceding provisions of this subsection do not apply if the object is displayed or the information is communicated in proceedings to deal with a contempt of court under this section.
- (4) If —
- (a) the accused applies to the court for an order granting permission to use or disclose the object or information; and
  - (b) the court makes such an order,

the accused may use or disclose the object or information for the purpose and to the extent specified by the court.

- (5) An application under subsection (4) may be made and dealt with at any time, and in particular after the accused has been acquitted or convicted or the prosecutor has decided not to proceed with the case concerned; but this is subject to rules made by virtue of section 17.

- (6) Where —

- (a) an application is made under subsection (4); and  
(b) the prosecutor or a person claiming to have an interest in the object or information applies to be heard by the court,

the court must not make an order granting permission unless the person applying under paragraph (b) has been given an opportunity to be heard.

- (7) Nothing in this section affects any other restriction or prohibition on the use or disclosure of an object or information, whether the restriction or prohibition arises under an enactment (whenever passed) or otherwise.

- (8) It is a contempt of court for a person knowingly to use or disclose an object or information recorded in it if the use or disclosure is in contravention of this section.

- (9) A person who is guilty of a contempt under this section may be dealt with as follows —

- (a) a court of summary jurisdiction may commit the person to custody for a specified period not exceeding six months or impose on the person a fine not exceeding £5,000 or both;  
(b) a court of General Gaol Delivery may commit the person to custody for a specified period not exceeding 2 years or impose a fine on the person or both.

- (10) If —

- (a) a person is guilty of a contempt under this section, and  
(b) the object concerned, or a copy of it, is in the person's possession,

the court finding the person guilty may order that the object or the copy as the case may be shall be forfeited and dealt with in such manner as the court may order.

- (11) The power of the court under subsection (10) includes power to order the object or copy as the case may be to be destroyed or to be given to the prosecutor or to be placed in his or her custody for such period as the court may specify.

- (12) If —

- (a) the court proposes to make an order under subsection (10); and

- (b) the person found guilty, or any other person claiming to have an interest in the object or copy as the case may be, applies to be heard by the court,

the court must not make the order unless the applicant has been given an opportunity to be heard.

- (13) An object or information shall be inadmissible as evidence in civil proceedings if to adduce it would in the opinion of the court be likely to constitute a contempt under this section
- (14) In subsection (13), “the court” means the court before which the civil proceedings are being taken.

## 17 Rules of court

P1996/25/19&20(3)&(4)

- (1) The power to make rules under section 91 of the *Summary Jurisdiction Act 1991* includes power to make such provision as is mentioned in subsections (2) and (3).
- (2) The provision is provision as to the practice and procedure to be followed in relation to —
  - (a) proceedings to deal with a contempt of court under section 16;
  - (b) an application under section 4(6), 6(6), 10(8), 11(2) or (5), 15(1) and (4) or 16(4), (6) or (12);
  - (c) an application under regulations made under section 14;
  - (d) an order under section 4(6), 6(6), 10(8), 11(2) or (5), 15(2) and 16(4) or (10);
  - (e) an order under regulations made under section 14.
- (3) The provision is to make, with regard to any proceedings before a court of summary jurisdiction relating to an alleged offence, provision for —
  - (a) requiring any party to the proceedings to disclose to the other party or parties any expert evidence which he proposes to adduce in the proceedings;
  - (b) prohibiting a party who fails to comply in respect of any evidence with any requirement imposed by virtue of paragraph (a) from adducing that evidence without the leave of the court.
- (4) Rules made by virtue of subsection (3) —
  - (a) may specify the kinds of expert evidence to which they apply;
  - (b) may exempt facts or matters of any description specified in the rules.

**18 Other rules as to disclosure**

P1996/25/20(1)&amp;21

- (1) A duty under any of sections 4 to 11 shall not affect or be affected by any duty arising under any other enactment with regard to material to be provided to or by the accused or a person representing the accused.
- (2) Where this Part applies as regards things falling to be done after the accused pleads not guilty to the alleged offence, the rules of common law that —
  - (a) were effective immediately before the commencement of this section; and
  - (b) relate to the disclosure of material by the prosecutor,do not apply as regards things falling to be done after that time in relation to the alleged offence.
- (3) Subsection (2) does not affect the rules of common law as to whether disclosure is in the public interest.

**19 Code of practice for police interviews of witnesses notified by accused**

P1996/25/21A(1)-(3)&amp;(11)

- (1) The Department of Home Affairs must prepare a code of practice which gives guidance to police officers, and other persons charged with the duty of investigating offences, in relation to the arranging and conducting of interviews of persons —
  - (a) particulars of whom are given in a defence statement in accordance with section 5(5); or
  - (b) who are included as proposed witnesses in a notice given under section 7.
- (2) The code must include (in particular) guidance in relation to —
  - (a) information that should be provided to the interviewee and the accused in relation to such an interview;
  - (b) the notification of the accused's advocate of such an interview;
  - (c) the attendance of the interviewee's advocate at such an interview;
  - (d) the attendance of the accused's advocate at such an interview;
  - (e) the attendance of any other appropriate person at such an interview taking into account the interviewee's age or any disability of the interviewee.
- (3) A code under this section is to be brought into operation by an order under section 21.
- (4) Any police officer or other person charged with the duty of investigating offences who arranges or conducts such an interview must have regard to the code.



- (5) A failure by a person mentioned in subsection (4) to have regard to any provision of a code for the time being in operation by virtue of an order under section 21 does not in itself render the person liable to any criminal or civil proceedings.

## PART 3 — CRIMINAL INVESTIGATIONS

### 20 Code of practice for criminal investigations

P1996/25/22&23, 25(3)& 26(1)&(2)

- (1) The Department of Home Affairs must prepare a code of practice containing provisions designed to secure —
- (a) that where a criminal investigation is conducted all reasonable steps are taken for the purposes of the investigation and, in particular, all reasonable lines of inquiry are pursued;
  - (b) that information which is obtained in the course of a criminal investigation and may be relevant to the investigation is recorded;
  - (c) that any record of such information is retained;
  - (d) that any other material which is obtained in the course of a criminal investigation and may be relevant to the investigation is retained;
  - (e) that information falling within paragraph (b) and material falling within paragraph (d) is revealed to a person who is involved in the prosecution of criminal proceedings arising out of or relating to the investigation and who is identified in accordance with prescribed provisions;
  - (f) that where such a person inspects information or other material in pursuance of a requirement that it be revealed to the person, and the person requests that it be disclosed to the accused, the accused is allowed to inspect it or is given a copy of it;
  - (g) that where such a person is given a document indicating the nature of information or other material in pursuance of a requirement that it be revealed to the person and the person requests that it be disclosed to the accused, the accused is allowed to inspect it or is given a copy of it;
  - (h) that the person who is to allow the accused to inspect information or other material or to give the accused a copy of it shall decide which of those (inspecting or giving a copy) is appropriate;
  - (i) that where the accused is allowed to inspect material as mentioned in paragraph (f) or (g) and the accused requests a copy, the accused is given one unless the person allowing the inspection thinks that it is not practicable or not desirable to give the accused one;

- (j) that a person mentioned in paragraph (e) is given a written statement that prescribed activities which the code requires have been carried out.
- (2) The code may include provision —
- (a) that a police officer identified in accordance with prescribed provisions must carry out a prescribed activity which the code requires;
- (b) that a police officer so identified must take steps to secure the carrying out by a person (whether or not a police officer) of a prescribed activity which the code requires;
- (c) that a duty must be discharged by different people in succession in prescribed circumstances (as where a person dies or retires).
- (3) The code may include provision about the form in which information is to be recorded.
- (4) The code may include provision about the manner in which and the period for which —
- (a) a record of information is to be retained; and
- (b) any other material is to be retained,
- and if a person is charged with an offence the period may extend beyond a conviction or an acquittal.
- (5) The code may include provision about the time when, the form in which, the way in which, and the extent to which, information or any other material is to be revealed to the person mentioned in subsection (1)(e).
- (6) The code must be so framed that it does not apply to material intercepted in obedience to a warrant issued under section 2 of the *Interception of Communications Act 1988*.
- (7) The code may —
- (a) make different provision in relation to different cases or descriptions of case;
- (b) contain exceptions as regards prescribed cases or descriptions of case.
- (8) A code brought into operation under this section shall apply in relation to suspected or alleged offences into which no criminal investigation has begun before the commencement of this section.
- (9) A person other than a police officer who is charged with the duty of conducting an investigation with a view to its being ascertained —
- (a) whether a person should be charged with an offence; or
- (b) whether a person charged with an offence is guilty of it,

shall in discharging that duty have regard to any relevant provision of a code which would apply if the investigation were conducted by police officers.

- (10) A failure —
- (a) by a police officer to comply with any provision of a code for the time being in operation by virtue of an order under this section; or
  - (b) by a person to comply with subsection (9),

does not in itself render him or her liable to any criminal or civil proceedings.

- (11) In this section —

“criminal investigation” mean investigation conducted by police officers with a view to its being ascertained —

- (a) whether a person should be charged with an offence; or
- (b) whether a person charged with an offence is guilty of it;

“material” means material of all kinds, and in particular information and objects of all descriptions;

“prescribed” means prescribed by the code; and

“recording”, in relation to information, means putting it in a durable or retrievable form (such as writing or tape).

## 21 Codes of practice: supplementary

1998/9/76(3); P1996/25/21A(5)-(9),(12)&(13), 25(2)&(4)&26(3)&(4)

- (1) A code under section 19 or section 20 is to be brought into operation by order, which order, along with the code, must be laid before Tynwald as soon as practicable after it is made, and if Tynwald at the sitting at which the order is laid or at the next following sitting fails to approve the order, it ceases to have effect.
- (2) The Department of Home Affairs may from time to time revise a code previously brought into operation under this section; and subsection (1) applies to a revised code as it applies to the code as first prepared.
- (3) In all criminal and civil proceedings a code in operation at any time by virtue of an order under this section is admissible in evidence.
- (4) If it appears to a court or tribunal conducting criminal or civil proceedings that —
  - (a) any provision of a code in operation at any time by virtue of an order under this section; or
  - (b) any failure mentioned in section 19(4) or section 20(10),
 is relevant to any question arising in the proceedings, the provision or failure shall be taken into account in deciding the question.

**22 Common law rules as to criminal investigations**

P1996/25/27

- (1) Where a code referred to in section 20 applies in relation to a suspected or alleged offence, the rules of common law that —
  - (a) were effective immediately before the day that on which the first code prepared under that section came into operation; and
  - (b) relate to the matter mentioned in subsection (2),do not apply in relation to the suspected or alleged offence.
- (2) The matter is the revealing of material —
  - (a) by a police officer or other person charged with the duty of conducting an investigation with a view to it being ascertained whether a person should be charged with an offence or whether a person charged with an offence is guilty of it;
  - (b) to a person involved in the prosecution of criminal proceedings.

**CONSULTATION CRITERIA**

**The Six Consultation Criteria**

1. Consult widely throughout the process, allowing a minimum of 6 weeks for a minimum of one written consultation at least once during the development of the legislation or policy.
2. Be clear about what your proposals are, who may be affected, what questions are being asked and the timescale for responses.
3. Ensure your consultation is clear, concise and widely accessible.
4. Give feedback regarding the responses received and how the consultation process influenced the policy.
5. Monitor your Department's effectiveness at consultation.
6. Ensure your consultation follows best practice, including carrying out an Impact Assessment if appropriate.

**APPENDIX D**

**LIST OF PERSONS OR BODIES CONSULTED REGARDING THIS BILL**

- Members of Tynwald
- The Attorney General
- Clerk of Tynwald
- Chief Officers of Government Departments, Offices and Statutory Boards
- Social Affairs Policy Review Committee of Tynwald
- Local Authorities
- Isle of Man Law Society
- Chief Constable
- Victim Support
- Positive Action Group
- Mec Vannin
- Liberal Vannin



**Isle of Man**  
Government

*Reiltys Ellan Vannin*



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