



# Criminal Justice and Licensing (Scotland) Act 2010

2010 asp 13

## PART 6

### DISCLOSURE

#### *Appeals*

#### 153 Appeals

- (1) The prosecutor may appeal to the High Court against—
  - (a) the making of a section 145 order under section 145(7),
  - (b) the making of a section 146 order,
  - (c) the making of a restricted notification order,
  - (d) the making of a non-attendance order,
  - (e) the refusal of an application for a non-notification order,
  - (f) the refusal of an application for an exclusion order, or
  - (g) the refusal of an application for a section 145 order.
- (2) The accused may appeal to the High Court against the making of—
  - (a) an exclusion order under section 144(4),
  - (b) a section 145 order,
  - (c) a section 146 order, or
  - (d) a non-attendance order.
- (3) The Secretary of State may appeal to the High Court against—
  - (a) the making of a section 146 order under section 146(11),
  - (b) the refusal of an application for a restricted notification order,
  - (c) the refusal of an application for a non-attendance order, or
  - (d) the refusal of an application for a section 146 order.
- (4) If special counsel was appointed in relation to an application for a non-notification order, special counsel may appeal to the High Court against the making of—

- (a) the non-notification order, or
  - (b) a section 145 order in relation to the same item of information.
- (5) If special counsel was appointed in relation to an application for a restricted notification order, special counsel may appeal to the High Court against the making of—
- (a) the restricted notification order, or
  - (b) a section 146 order in relation to the same item of information.
- (6) An appeal must be lodged not later than 7 days after the decision appealed against.
- (7) The prosecutor is entitled to be heard in any appeal under this section.
- (8) The accused is entitled to be heard in an appeal under—
- (a) subsection (1)(a) or (g) or (2)(b) unless—
    - (i) a non-notification order has been made, or
    - (ii) an exclusion order has been made,
  - (b) subsection (1)(b), (2)(c) or (3)(a) or (d) unless—
    - (i) a restricted notification order has been made, or
    - (ii) a non-attendance order has been made,
  - (c) subsection (1)(d), (2)(d) or (3)(c) unless the court, on the application of the Secretary of State, excludes the accused from the hearing,
  - (d) subsection (1)(f) or (2)(a) unless the court, on the application of the prosecutor excludes the accused from the hearing.
- (9) The Secretary of State is entitled to be heard in an appeal under subsection (1)(b), (c) or (d), (2)(c) or (d) or (5).
- (10) In this section—
- “accused” includes appellant or, where the order relates to section 136(2), 137(2) or 138(2), other person to whom the section concerned applies,
  - “appellant” has the meaning given by section 132.

#### **154 Prohibition on disclosure pending determination of certain appeals**

- (1) Subsection (2) applies where—
- (a) the prosecutor appeals to the High Court under subsection (1)(a), (b) or (g) of section 153, or
  - (b) the Secretary of State appeals to the High Court under subsection (3)(a) or (d) of that section.
- (2) Pending the determination or abandonment of the appeal, the prosecutor must not disclose the item of information to which the appeal relates.