



# Criminal Justice and Licensing (Scotland) Act 2010

2010 asp 13

## PART 6

### DISCLOSURE

*Orders preventing or restricting disclosure: Secretary of State*

#### **148 Application for restricted notification order and non-attendance order**

- (1) This section applies where by virtue of section 147(2)(a) the Secretary of State applies for a restricted notification order and a non-attendance order.
- (2) On receiving the application, the court must appoint a hearing to determine whether a restricted notification order should be made.
- (3) The accused is not to be notified of—
  - (a) the applications for the section 146 order, the restricted notification order and the non-attendance order, or
  - (b) the hearing appointed under subsection (2).
- (4) The accused is not to be given the opportunity to be heard or be represented at the hearing.
- (5) If, after giving the Secretary of State and the prosecutor an opportunity to be heard, the court is satisfied that the conditions in subsection (6) are met, the court may make a restricted notification order.
- (6) Those conditions are—
  - (a) that disclosure to the accused of the making of the application for the section 146 order would be likely to cause a real risk of substantial harm or damage to the public interest, and
  - (b) that, having regard to all the circumstances, the making of a restricted notification order would be consistent with the accused's receiving a fair trial.

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*Status: This is the original version (as it was originally enacted).*

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- (7) If the court makes a restricted notification order, it must also make a non-attendance order.
- (8) If the court refuses to make a restricted notification order, the court must appoint a hearing to determine the application for a non-attendance order.
- (9) If after giving the Secretary of State, the prosecutor and, subject to subsection (10), the accused an opportunity to be heard, the court is satisfied that the conditions in subsection (5) of section 149 are met, the court may make a non-attendance order under subsection (4) of that section.
- (10) On the application of the Secretary of State the court may exclude the accused from the hearing appointed under subsection (8).