

CRIMINAL JUSTICE AND LICENSING (SCOTLAND) ACT 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 6 - Disclosure

Section 150 – Special counsel

663. **Sections 150 to 152** provide for the appointment of and the role of Special Counsel. Section 150 gives a power to the court in considering an application for various orders to appoint special counsel to represent the interests of the accused in respect of the determination of the application at a hearing or any review or appeal thereon. It is not anticipated that such appointments will be a common occurrence. The appointments only relate to the orders specified in the section and do not extend beyond that. For example, it is not anticipated that special counsel would be present during the trial itself to represent the interests of the accused in respect of the information that was the subject of the application
664. Subsection (3) sets out the test for such an appointment, namely that is necessary to ensure that the accused receives a fair trial.
665. Subsections (4) to (6) provide that the prosecutor, or, as the case may be, the Secretary of State and, in limited circumstances, the accused, are able to make representation to the court before the court decides whether to appoint special counsel.
666. Subsections (7) to (9) makes provision for appeal against the decision of the court not to appoint special counsel.