

CRIMINAL JUSTICE AND LICENSING (SCOTLAND) ACT 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 6 - Disclosure

Section 162 – Confidentiality of disclosed information

694. This section covers disclosed information and restricts how the accused and others may use information that has been disclosed to him. The restrictions are set out in subsections (2) and (4). These prevent the accused and all other persons to whom the information has been disclosed, whether by the prosecutor or any other person, from using or sharing disclosed information with anyone else in any way except where subsection (3) applies. By subsection (5) if the accused discloses information to a person in a way other than in accordance with the restrictions then the person to whom the information has been disclosed must not use or disclose the information or anything recorded in it. Subsection (6) provides that the restriction does not apply to information already in the public domain at the time of the use or disclosure.
695. Subsections (3) and (7) make provision to ensure that, notwithstanding the overall restriction, the accused may use the information disclosed to him for certain specified purposes connected with the preparation and presentation of his case or appeal and with a view to taking an appeal, which include references to the SCCRC, petitions to the *nobile officium* and applications to the European Court of Human Rights.
696. Subsection (9) ensures that other legislation is given effect to, for example Data Protection Act 1998 and any other statutory scheme which creates prohibitions or obligations of confidentiality.