



# Criminal Justice and Licensing (Scotland) Act 2010

2010 asp 13

## PART 6

### DISCLOSURE

#### *Court rulings on disclosure: appellate proceedings*

#### **139 Application by appellant for ruling on disclosure**

- (1) This section applies where the appellant—
  - (a) has made a further disclosure request under section 135, and
  - (b) considers that the prosecutor has failed, in responding to the request, to disclose to the appellant an item of information falling within section 133(3) (the “information in question”).
- (2) The appellant may apply to the court for a ruling on whether the information in question falls within section 133(3).
- (3) An application under subsection (2) is to be made in writing and must set out—
  - (a) where the appellant is or was charged with more than one offence, the charge or charges to which the application relates,
  - (b) a description of the information in question, and
  - (c) the appellant's grounds for considering that the information in question falls within section 133(3).
- (4) On receiving an application under subsection (2), the court must appoint a hearing at which the application is to be considered and determined.
- (5) However, the court may dispose of the application without appointing a hearing if the court considers that the application does not—
  - (a) comply with subsection (3), or
  - (b) otherwise disclose any reasonable grounds for considering that the information in question falls within section 133(3).

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**Changes to legislation:** There are currently no known outstanding effects for the Criminal Justice and Licensing (Scotland) Act 2010, Section 139. (See end of Document for details)

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- (6) At a hearing appointed under subsection (4), the court must give the prosecutor and the appellant an opportunity to be heard before determining the application.
- (7) On determining the application, the court must—
- (a) make a ruling on whether the information in question, or any part of the information in question, falls within section 133(3), and
  - (b) where the appellant is or was charged with more than one offence, specify the charge or charges to which the ruling relates.
- (8) In this section, “the court” means the court before which the appellant's appeal is brought.
- (9) Except where it is impracticable to do so, the application is to be assigned to the judges who are to hear the appellant's appeal.

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**Commencement Information**

**II** S. 139 in force at 6.6.2011 by [S.S.I. 2011/178](#) , [art. 2](#) , [Sch.](#) (with [Sch.](#) )

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