



Criminal Justice and Licensing (Scotland) Act 2010

2010 asp 13

PART 6

DISCLOSURE

Applications to court: orders preventing or restricting disclosure

144 Application for exclusion order

- (1) This section applies where by virtue of section 142(2)(b) or (3) the prosecutor applies for an exclusion order (but not a non-notification order).
- (2) On receiving the application the court must appoint a hearing.
- (3) On the application of the prosecutor the court may exclude the accused from the hearing.
- (4) If after giving the prosecutor and, subject to subsection (3), the accused an opportunity to be heard on the applications for the exclusion order and the section 145 order to which it relates the court is satisfied that the conditions in subsection (5) are met, the court may make an exclusion order.
- (5) Those conditions are—
 - (a) that disclosure to the accused of the nature of the information to which the application for the section 145 order relates 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 an exclusion order would be consistent with the accused's receiving a fair trial.