



Criminal Justice and Licensing (Scotland) Act 2010

2010 asp 13

PART 6

DISCLOSURE

General

162 Confidentiality of disclosed information

- (1) This section applies where by virtue of this Part the prosecutor discloses information to an accused.
- (2) The accused must not use or disclose the information or anything recorded in it other than in accordance with subsection (3).
- (3) The accused may use or disclose the information—
 - (a) for the purposes of the proper preparation and presentation of the accused's case in the proceedings in relation to which the information was disclosed ("the original proceedings"),
 - (b) with a view to the taking of an appeal in relation to the matter giving rise to the original proceedings,
 - (c) for the purposes of the proper preparation and presentation of the accused's case in any such appeal.
- (4) A person to whom information is disclosed by virtue of subsection (3) must not use or disclose the information or anything recorded in it other than for the purpose for which it was disclosed.
- (5) If despite subsection (2) the accused discloses the information or anything recorded in it other than in accordance with subsection (3), a person to whom information is disclosed must not use or disclose the information or anything recorded in it.
- (6) Subsections (2), (4) and (5) do not apply in relation to the use or disclosure of information which is in the public domain at the time of the use or disclosure.

Changes to legislation: There are currently no known outstanding effects for the Criminal Justice and Licensing (Scotland) Act 2010, Section 162. (See end of Document for details)

(7) In subsection (3) “appeal” includes—

- (a) the reference of a case to the High Court of Justiciary by the Scottish Criminal Cases Review Commission under section 194B of the 1995 Act,
- (b) a petition to the *nobile officium*,
- (c) proceedings in the European Court of Human Rights.

[^{F1}(8) In this section—

“accused” includes—

- (a) where information is disclosed by virtue of section 133(2)(b), 134(2)(b), 135(3)(b), 136(2), 137(2) or 138(2), the appellant or, as the case may be, person to whom the prosecutor is required to disclose the information, and
- (b) where information is disclosed by virtue of section 140B(2)(b), 140C(2) or 140D(3)(b), the respondent,

“respondent” has the meaning given by section 140A.]

(9) Nothing in this section affects any other restriction or prohibition on the use or disclosure of information, whether the restriction or prohibition arises by virtue of an enactment (whenever passed or made) or otherwise.

Textual Amendments

F1 S. 162(8) substituted (28.11.2011) by [Double Jeopardy \(Scotland\) Act 2011 \(asp 16\)](#), s. 17(3), [Sch. para. 32](#); [S.S.I. 2011/365](#), art. 3

Commencement Information

I1 S. 162 in force at 6.6.2011 by [S.S.I. 2011/178](#), art. 2, [Sch.](#)

Changes to legislation:

There are currently no known outstanding effects for the Criminal Justice and Licensing (Scotland) Act 2010, Section 162.