

*These notes relate to the Criminal Justice and Licensing (Scotland)
Act 2010 (asp 13) which received Royal Assent on 6 August 2010*

CRIMINAL JUSTICE AND LICENSING (SCOTLAND) ACT 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 6 - Disclosure

Section 149 - Application for non-attendance order

662. This section sets out the procedure to be followed where the Secretary of State applies for a non-attendance order alone (i.e. without a restricted notification order) seeking to exclude the accused from attending, and making representations, at the hearing on the order preventing or restricting disclosure. This provision is applicable to both solemn and summary procedure. Subsection (2) provides that the court must appoint a hearing on receiving an application for a non-attendance order. Subsections (4) and (5) provide that at that hearing the Secretary of State, the prosecutor and the accused (unless excluded following application being made by the Secretary of State) will be entitled to make representations, after which, the court may make a non-attendance order if it is satisfied that the conditions are met namely the balance between a fair trial and the real risk of harm or damage to the public interest.