



Criminal Justice and Licensing (Scotland) Act 2010

2010 asp 13

PART 6

DISCLOSURE

Applications to court: orders preventing or restricting disclosure

142 Application for non-notification order or exclusion order

- (1) This section applies where the prosecutor is required by section 141(5) to apply to the court for a section 145 order.
- (2) If the application for a section 145 order relates to solemn proceedings (whether continuing or concluded [^{F1}or to 2011 Act proceedings]), the prosecutor may also apply to the court for—
 - (a) a non-notification order and an exclusion order, or
 - (b) an exclusion order (but not a non-notification order).
- (3) If the application for a section 145 order relates to summary proceedings (whether continuing or concluded), the prosecutor may also apply to the court for an exclusion order.
- (4) A non-notification order is an order under section 143 prohibiting notice being given to the accused of—
 - (a) the making of an application for—
 - (i) the section 145 order to which the non-notification order relates,
 - (ii) the non-notification order, and
 - (iii) an exclusion order, and
 - (b) the determination of those applications.
- (5) An exclusion order is an order under section 143 or 144 prohibiting the accused from attending or making representations in proceedings for the determination of the application for a section 145 order to which the exclusion order relates.

Changes to legislation: There are currently no known outstanding effects for the Criminal Justice and Licensing (Scotland) Act 2010, Section 142. (See end of Document for details)

- (6) Subsection (7) applies where the prosecutor applies—
- (a) by virtue of subsection (2)(a) for a non-notification order and an exclusion order, or
 - (b) by virtue of subsection (2)(a) or (b) for an exclusion order.
- (7) Before determining in accordance with section 145 the application for the section 145 order, the court must—
- (a) in accordance with section 143, determine any applications for a non-notification order and an exclusion order,
 - (b) in accordance with section 144, determine any application for an exclusion order.
- (8) In this section and sections 143 to 145—
- [^{F2}“accused” includes—
- (a) where subsection (5) of section 141 applies by virtue of the conditions in subsection (3) of that section being met, the appellant or other person to whom the prosecutor is required to disclose the item of information, and
 - (b) where subsection (5) of section 141 applies by virtue of the conditions in subsection (3A) of that section being met, the respondent,]
- “ appellant ” has the meaning given by section 132.
- [^{F3}“respondent” has the meaning given by section 140A.]

Textual Amendments

- F1** Words in s. 142(2) inserted (28.11.2011) by [Double Jeopardy \(Scotland\) Act 2011 \(asp 16\)](#) , s. 17(3) , [Sch. para. 20\(a\)](#) ; [S.S.I. 2011/365](#) , art. 3
- F2** Words in s. 142(8) substituted (28.11.2011) by [Double Jeopardy \(Scotland\) Act 2011 \(asp 16\)](#) , s. 17(3), [Sch. para. 20\(b\)\(i\)](#); [S.S.I. 2011/365](#), art. 3
- F3** Words in s. 142(8) inserted (28.11.2011) by [Double Jeopardy \(Scotland\) Act 2011 \(asp 16\)](#) , s. 17(3), [Sch. para. 20\(b\)\(ii\)](#); [S.S.I. 2011/365](#), art. 3
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Commencement Information

- I1** S. 142 in force at 6.6.2011 by [S.S.I. 2011/178](#) , art. 2 , [Sch.](#) (with art. 3)

Changes to legislation:

There are currently no known outstanding effects for the Criminal Justice and Licensing (Scotland) Act 2010, Section 142.