



Criminal Justice and Licensing (Scotland) Act 2010

2010 asp 13

PART 6

DISCLOSURE

Orders preventing or restricting disclosure: Secretary of State

149 Application for non-attendance order

- (1) This section applies where by virtue of section 147(2)(b) the Secretary of State applies for a non-attendance order (but not a restricted notification order).
- (2) On receiving the application, the court must appoint a hearing.
- (3) On the application of the Secretary of State the court may exclude the accused from the hearing.
- (4) If after giving the Secretary of State, the prosecutor and, if not excluded under subsection (3), the accused an opportunity to be heard the court is satisfied that the conditions in subsection (5) are met, the court may make a non-attendance order.
- (5) Those conditions are—
 - (a) that disclosure to the accused of the nature of the information to which the application for the section 146 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 a non-attendance order would be consistent with the accused's receiving a fair trial.