

*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 138 – Further duty of prosecutor: appeal against acquittal

618. This section provides that, where an accused person is acquitted and the prosecutor appeals against that acquittal then, if after lodging his appeal the prosecutor becomes aware of information that relates to the appeal and which meets the test in section 133 then, as soon as practicable thereafter, the prosecutor must disclose that information to the acquitted person. Subsection (3) provides that the prosecutor is not required to disclose anything that has already been disclosed. Subsection (4) provides that this duty is brought to an end by the disposal of the appeal by the High Court and subsection (5) makes it clear that there is no requirement on the prosecutor to proactively review the information of which he or she is aware.