

CRIMINAL JUSTICE AND LICENSING (SCOTLAND) ACT 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 6 - Disclosure

Section 147 – Application for ancillary orders: Secretary of State

654. This section allows the Secretary of State to apply to the court for ancillary orders where an application for an order is made under section 146. It sets out the procedure by which the Secretary of State may apply for a non-attendance order or a restricted notification order. These orders are similar in purpose to the “non notification” order and exclusion order which the prosecutor can apply for where an application is made for a section 145 order.
655. Subsections (2) provides that the Secretary of State may in solemn proceedings apply for both a restricted notification order and a non-attendance order or for just a non attendance order on it own. In accordance with subsection (3) he may only apply for a non-attendance order in summary proceedings. Both subsections include proceedings which take place after the conclusion of the first instance proceedings.
656. Subsection (4) explains the effect of a restricted notification order. It is an order prohibiting notice being given to the accused of both the making of any application for an order under section 146 or for a restricted notification order or non-attendance order.
657. Subsection (5) explains the effect of a non-attendance order. It is an order prohibiting the accused from attending or making representations in proceedings relating to the determination of any application under section 146 for an order preventing or restricting disclosure.
658. Subsection (7) sets out the order in which the court must consider each application mirroring the provision in section 142. It provides that the court must consider any application for ancillary orders before determining the application for the order under section 146.