

CRIMINAL JUSTICE AND LICENSING (SCOTLAND) ACT 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 6 - Disclosure

Section 156 – Review of section 146 order

679. This section mirrors section 155 which provides for reviews of section 145 orders sought by the prosecutor.
680. Subsections (1) and (2) provide that such an application for review can be made only where the court has made a section 146 order and where the Secretary of State, prosecutor or accused becomes aware of information that was unavailable to the court at the time of making that order and that the prosecutor or accused considers that the section 146 order should be revisited in light of this new information. Where appointed, special counsel may also make the application.
681. Subsection (3) provides who can attend the review hearing. Subject to subsection (4), the same parties as were heard in relation to the section 146 order will have the opportunity to make representations.
682. In terms of subsection (4), where there was a restricted notification order in place and the court is satisfied that the grounds for making it remain, the court may make an order prohibiting the accused from being notified of the application for review, thus having the same effect as a non-notification order.
683. Similarly, in terms of subsection (5), where there was a “non attendance” order in place and the court is satisfied that the grounds for that remain, the court may make an order excluding the accused from the review.
684. Subsection (6) provides that if the court on reviewing the order in light of the new information is satisfied that the grounds for the section 146 order no longer remain, the court may recall the order, or make an order for partial disclosure.
685. Subsection (8) has the effect of allowing applications for review at any time following the making of the section 146 order until the conclusion of the proceedings against the accused.