



Criminal Justice and Licensing (Scotland) Act 2010

2010 asp 13

PART 6

DISCLOSURE

Appeals

153 Appeals

- (1) The prosecutor may appeal to the High Court against—
 - (a) the making of a section 145 order under section 145(7),
 - (b) the making of a section 146 order,
 - (c) the making of a restricted notification order,
 - (d) the making of a non-attendance order,
 - (e) the refusal of an application for a non-notification order,
 - (f) the refusal of an application for an exclusion order, or
 - (g) the refusal of an application for a section 145 order.
- (2) The accused may appeal to the High Court against the making of—
 - (a) an exclusion order under section 144(4),
 - (b) a section 145 order,
 - (c) a section 146 order, or
 - (d) a non-attendance order.
- (3) The Secretary of State may appeal to the High Court against—
 - (a) the making of a section 146 order under section 146(11),
 - (b) the refusal of an application for a restricted notification order,
 - (c) the refusal of an application for a non-attendance order, or
 - (d) the refusal of an application for a section 146 order.
- (4) If special counsel was appointed in relation to an application for a non-notification order, special counsel may appeal to the High Court against the making of—

Status: Point in time view as at 28/11/2011.

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

- (a) the non-notification order, or
 - (b) a section 145 order in relation to the same item of information.
- (5) If special counsel was appointed in relation to an application for a restricted notification order, special counsel may appeal to the High Court against the making of—
- (a) the restricted notification order, or
 - (b) a section 146 order in relation to the same item of information.
- (6) An appeal must be lodged not later than 7 days after the decision appealed against.
- (7) The prosecutor is entitled to be heard in any appeal under this section.
- (8) The accused is entitled to be heard in an appeal under—
- (a) subsection (1)(a) or (g) or (2)(b) unless—
 - (i) a non-notification order has been made, or
 - (ii) an exclusion order has been made,
 - (b) subsection (1)(b), (2)(c) or (3)(a) or (d) unless—
 - (i) a restricted notification order has been made, or
 - (ii) a non-attendance order has been made,
 - (c) subsection (1)(d), (2)(d) or (3)(c) unless the court, on the application of the Secretary of State, excludes the accused from the hearing,
 - (d) subsection (1)(f) or (2)(a) unless the court, on the application of the prosecutor excludes the accused from the hearing.
- (9) The Secretary of State is entitled to be heard in an appeal under subsection (1)(b), (c) or (d), (2)(c) or (d) or (5).
- (10) In this section—
- [^{F1} “accused” includes—
 - ((a)) appellant or, where the order relates to section 136(2), 137(2) or 138(2), other person to whom the section concerned applies, and
 - ((b)) respondent,]
 “appellant” has the meaning given by section 132.
 [^{F2} “respondent” has the meaning given by section 140A.]

Textual Amendments

F1 Words in s. 153(10) substituted (28.11.2011) by [Double Jeopardy \(Scotland\) Act 2011 \(asp 16\)](#), s. 17(3), [Sch. para. 27\(a\)](#); [S.S.I. 2011/365](#), art. 3

F2 Words in s. 153(10) inserted (28.11.2011) by [Double Jeopardy \(Scotland\) Act 2011 \(asp 16\)](#), s. 17(3), [Sch. para. 27\(b\)](#); [S.S.I. 2011/365](#), art. 3

Commencement Information

II S. 153 in force at 6.6.2011 by [S.S.I. 2011/178](#), art. 2, [Sch.](#)

154 Prohibition on disclosure pending determination of certain appeals

- (1) Subsection (2) applies where—
- (a) the prosecutor appeals to the High Court under subsection (1)(a), (b) or (g) of section 153, or

Status: Point in time view as at 28/11/2011.

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

- (b) the Secretary of State appeals to the High Court under subsection (3)(a) or (d) of that section.
- (2) Pending the determination or abandonment of the appeal, the prosecutor must not disclose the item of information to which the appeal relates.

Commencement Information

I2 S. 154 in force at 6.6.2011 by [S.S.I. 2011/178](#) , art. 2 , [Sch.](#)

Status:

Point in time view as at 28/11/2011.

Changes to legislation:

There are currently no known outstanding effects for the Criminal Justice and Licensing (Scotland) Act 2010, Cross Heading: Appeals.