



Criminal Justice and Licensing (Scotland) Act 2010

2010 asp 13

PART 6

DISCLOSURE

Special counsel

152 Role of special counsel

- (1) Special counsel's duty is, in relation to the determination of the relevant application or appeal, to act in the best interests of the accused with a view only to ensuring that the accused receives a fair trial.
- (2) Special counsel—
 - (a) is entitled to see the confidential information, but
 - (b) must not disclose any of the confidential information to the accused or the accused's representative (if any).
- (3) Special counsel appointed in a non-notification case or a restricted notification case must not—
 - (a) disclose to the accused or the accused's representative (if any) the making of the relevant application or appeal, or
 - (b) otherwise communicate with the accused or the accused's representative (if any) about the relevant application or appeal.
- (4) Special counsel appointed in any case other than a non-notification case or a restricted notification case must not communicate with the accused or the accused's representative (if any) about the relevant application or appeal except—
 - (a) with the permission of the court, and
 - (b) where permission is given, in accordance with such conditions as the court may impose.
- (5) Before deciding whether to grant permission, the court must give—
 - (a) the prosecutor, and

Changes to legislation: There are currently no known outstanding effects for the Criminal Justice and Licensing (Scotland) Act 2010, Section 152. (See end of Document for details)

(b) in the case of an application for a section 146 order or a non-attendance order, the Secretary of State,
an opportunity to be heard.

[^{F1}(5A) In subsection (1), the reference to the accused receiving a fair trial includes reference to the respondent receiving a fair hearing in the 2011 Act proceedings.]

(6) In this section—

“the confidential information” means—

(a) the information to which the relevant application or appeal relates, and

(b) a copy of the relevant application or appeal,

“relevant application or appeal” means the application or appeal referred to in section 150(1) in respect of which special counsel is appointed.

Textual Amendments

F1 S. 152(5A) inserted (28.11.2011) by Double Jeopardy (Scotland) Act 2011 (asp 16), s. 17(3), **Sch. para. 26**; S.S.I. 2011/365, art. 3

Commencement Information

I1 S. 152 in force at 6.6.2011 by S.S.I. 2011/178 , art. 2 , **Sch.**

Changes to legislation:

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