

CRIMINAL JUSTICE AND LICENSING (SCOTLAND) ACT 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 3 - Criminal Procedure

Section 69 – Prohibition of personal conduct of case by accused in certain proceedings

311. This section extends the existing prohibitions in sections 288C, 288E and 288F of the Criminal Procedure (Scotland) Act 1995 (“the 1995 Act”), that prevent an accused person conducting their own defence in certain cases, to any relevant hearing in the proceedings. Previously, the prohibitions only applied to preliminary hearings, trials and victim statement proofs. “Relevant hearing” means any hearing in the course of proceedings at, or for the purposes of, which a witness is to give evidence.
312. Subsection (2) amends section 288C of the 1995 Act to ensure that, in proceedings in respect of a sexual offence specified in 288C(2), an accused is prohibited from conducting his case in person at or for any relevant hearing in the course of the proceedings. It also repeals section 288C(8).
313. Subsection (3) amends section 288D of the 1995 Act so that an accused must be notified that his case, at or for any relevant hearing, must be conducted by a lawyer.
314. Subsection (4) amends section 288E of the 1995 Act so that, in proceedings in respect of an offence specified in section 288E(2)(a), an accused is prohibited from conducting his case in person at or for any relevant hearing where a child witness under the age of 12 is to give evidence. It also repeals section 288E(8).
315. Subsection (5) amends section 288F of the 1995 Act so that an accused, in proceedings in respect of any offence involving a vulnerable witness (other than proceedings to which sections 288C or 288E apply), is prohibited from conducting his case in person at or for any relevant hearing where that witness is to give evidence. It repeals subsection (6) of that section of the 1995 Act which defines “victim statement proof”.