

These notes relate to the Criminal Justice and Licensing (Scotland) Act 2010 (asp 13) which received Royal Assent on 6 August 2010

CRIMINAL JUSTICE AND LICENSING (SCOTLAND) ACT 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 4 - Evidence

Section 84 – Admissibility of prior statements of witnesses: abolition of competence test

410. This section clarifies that the abolition of the competency test for all witnesses – brought into effect by section 24 of the Vulnerable Witnesses (Scotland) Act 2004 Act (“the 2004 Act”) - also applies to evidence given by a prior statement made before 1 April 2005. Section 24 removed the court’s entitlement to ask questions of witnesses to establish that they had a sufficient understanding of the truth, understood the duty to tell the truth and had the ability to give coherent testimony.
411. Where a prior statement made before the coming into force of section 24 of the 2004 Act is sought to be admitted as evidence in a case under section 260 of the Criminal Procedure (Scotland) Act 1995, then for the purposes of subsection 2(c) of section 260, section 24 is taken to have been in force at the time the statement was made. This means that the court, when deciding whether to admit the statement, should not take any steps to establish whether the witness understood the matters set out in section 24 at the time the statement was made.