



Criminal Procedure (Scotland) Act 1995

1995 CHAPTER 46

PART XII

EVIDENCE

[^{F1}Special measures for child witnesses and other vulnerable witnesses]

[^{F1} 271 Vulnerable witnesses: main definitions

^{F2}(1) For the purposes of this Act, a person who is giving or is to give evidence at, or for the purposes of, a hearing in relevant criminal proceedings is a vulnerable witness if—

- (a) the person is under the age of 18 on the date of commencement of the proceedings in which the hearing is being or is to be held,
- (b) there is a significant risk that the quality of the evidence to be given by the person will be diminished by reason of—
 - (i) mental disorder (within the meaning of section 328 of the Mental Health (Care and Treatment) (Scotland) Act 2003), or
 - (ii) fear or distress in connection with giving evidence at the hearing,
- (c) the offence is alleged to have been committed against the person in proceedings for—
 - (i) an offence listed in any of paragraphs 36 to 59ZL of Schedule 3 to the Sexual Offences Act 2003,
 - (ii) an offence under section 22 of the Criminal Justice (Scotland) Act 2003 (traffic in prostitution etc.),
 - (iii) an offence under section 4 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (trafficking people for exploitation),
 - ^{F3}(iiia) an offence of human trafficking (see section 1 of the Human Trafficking and Exploitation (Scotland) Act 2015),]
 - (iv) an offence the commission of which involves domestic abuse, or
 - (v) an offence of stalking, or
- (d) there is considered to be a significant risk of harm to the person by reason only of the fact that the person is giving or is to give evidence in the proceedings.]

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^{F4}(1A)

[^{F5}(1AA) The Scottish Ministers may by order subject to the affirmative procedure modify subsection (1)(c).]

(2) In determining whether a person is a vulnerable witness by virtue of subsection (1)(b) [^{F6}or (d)] above, the court shall take into account—

- (a) the nature and circumstances of the alleged offence to which the proceedings relate,
- (b) the nature of the evidence which the person is likely to give,
- (c) the relationship (if any) between the person and the accused,
- (d) the person’s age and maturity,
- (e) any behaviour towards the person on the part of—
 - (i) the accused,
 - (ii) members of the family or associates of the accused,
 - (iii) any other person who is likely to be an accused or a witness in the proceedings, and
- (f) such other matters, including—
 - (i) the social and cultural background and ethnic origins of the person,
 - (ii) the person’s sexual orientation,
 - (iii) the domestic and employment circumstances of the person,
 - (iv) any religious beliefs or political opinions of the person, and
 - (v) any physical disability or other physical impairment which the person has,

as appear to the court to be relevant.

(3) For the purposes of subsection (1)(a) [^{F7}, section 271B(1)(b) and sections 271BZA to 271BZC], proceedings shall be taken to have [^{F8}commenced—

- (a) where it is relevant to a court’s consideration of whether to authorise the use of the special measure of taking evidence by commissioner (on its own or in combination with any other special measure) and the accused has appeared on petition, on the date when the accused appeared on petition, or
- (b) in any other case, on the date] when the indictment or, as the case may be, complaint is served on the accused.

(4) In subsection (1)(b) above, the reference to the quality of evidence is to its quality in terms of completeness, coherence and accuracy.

[^{F9}(4A) In determining whether a person is a vulnerable witness under subsection (1)(b) or (d), the court must—

- (a) have regard to the best interests of the witness, and
- (b) take account of any views expressed by the witness.]

(5) In this section and sections 271A to 271M of this Act—

[^{F10} “child witness” means a vulnerable witness referred to in subsection (1) (a),]

[^{F11} “deemed vulnerable witness” means a vulnerable witness referred to in subsection (1)(c),]

“court” means the High Court or the sheriff court,

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[^{F12} “hearing in relevant criminal proceedings” means any hearing in the course of any criminal proceedings in the High Court or the sheriff court.]

^{F13} ...

(6) In sections 271A to 271M of this Act, “special measure” means any of the special measures set out in, or prescribed under, section 271H below.]

Textual Amendments

- F1** Ss. 271-271M and preceding cross-heading substituted for s. 271 (1.4.2005, 30.11.2005, 1.4.2006, 1.4.2007 and 2.7.2007 for certain purposes, otherwise 1.4.2008) by [Vulnerable Witnesses \(Scotland\) Act 2004 \(asp 3\)](#), **ss. 1, 25**; S.S.I. 2005/168, **art. 2**, Sch. (with savings in art. 4); S.S.I. 2005/590, **art. 2**, Sch. (with art. 4); S.S.I. 2006/59, **art. 2**, Sch. (with art. 4(1)); S.S.I. 2007/101, **art. 2**, Sch. (with art. 4); S.S.I. 2007/329, **art. 2**, Sch. (with art. 4); S.S.I. 2008/57, **art. 2** (with art. 3)
- F2** S. 271(1) substituted (1.9.2015) by [Victims and Witnesses \(Scotland\) Act 2014 \(asp 1\)](#), **ss. 10(a)**, 34; S.S.I. 2015/200, art. 2(2), sch. (with arts. 1(3), 4)
- F3** S. 271(1)(c)(iia) inserted (31.5.2016) by [Human Trafficking and Exploitation \(Scotland\) Act 2015 \(asp 12\)](#), s. 45(2), **sch. para. 1** (with s. 44); S.S.I. 2016/128, reg. 2, **sch.**
- F4** S. 271(1A) repealed (1.9.2015) by [Victims and Witnesses \(Scotland\) Act 2014 \(asp 1\)](#), **ss. 10(c)**, 34; S.S.I. 2015/200, art. 2(2), sch. (with arts. 1(3), 4)
- F5** S. 271(1AA) inserted (1.9.2015) by [Victims and Witnesses \(Scotland\) Act 2014 \(asp 1\)](#), **ss. 10(b)**, 34; S.S.I. 2015/200, art. 2(2), sch. (with arts. 1(3), 4)
- F6** Words in s. 271(2) inserted (1.9.2015) by [Victims and Witnesses \(Scotland\) Act 2014 \(asp 1\)](#), **ss. 10(d)**, 34; S.S.I. 2015/200, art. 2(2), sch. (with arts. 1(3), 4)
- F7** Words in s. 271(3) substituted (20.1.2020) by [Vulnerable Witnesses \(Criminal Evidence\) \(Scotland\) Act 2019 \(asp 8\)](#), **ss. 5(6)(a)**, 12(2); S.S.I. 2019/392, reg. 2 (with reg. 4(2))
- F8** Words in s. 271(3) substituted (20.1.2020) by [Vulnerable Witnesses \(Criminal Evidence\) \(Scotland\) Act 2019 \(asp 8\)](#), **ss. 5(6)(b)**, 12(2); S.S.I. 2019/392, reg. 2 (with reg. 4(2))
- F9** S. 271(4A) inserted (1.9.2015) by [Victims and Witnesses \(Scotland\) Act 2014 \(asp 1\)](#), **ss. 10(e)**, 34; S.S.I. 2015/200, art. 2(2), sch. (with arts. 1(3), 4)
- F10** Definition in s. 271(5) inserted (1.9.2015) by [Victims and Witnesses \(Scotland\) Act 2014 \(asp 1\)](#), **ss. 11(3)(a)**, 34; S.S.I. 2015/200, art. 2(2), sch. (with arts. 1(3), 4)
- F11** Definition in s. 271(5) inserted (1.9.2015) by [Victims and Witnesses \(Scotland\) Act 2014 \(asp 1\)](#), **ss. 11(3)(b)**, 34; S.S.I. 2015/200, art. 2(2), sch. (with arts. 1(3), 4)
- F12** Definition in s. 271(5) inserted (28.3.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), **ss. 87(2)(b)(ii)**, 206(1); S.S.I. 2011/178, art. 2, sch.
- F13** Definition in s. 271(5) repealed (28.3.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), **ss. 87(2)(b)(i)**, 206(1); S.S.I. 2011/178, art. 2, sch.

Modifications etc. (not altering text)

- C1** Ss. 271-271M applied by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#), s. 15A (as inserted (1.4.2005, 30.11.2005, 1.4.2006, 1.4.2007 and 2.7.2007 for certain purposes and 1.4.2008) by [Vulnerable Witnesses \(Scotland\) Act 2004 \(asp 3\)](#), **ss. 3, 25**; S.S.I. 2005/168, **art. 2**, Sch. (with savings in art. 4); S.S.I. 2005/590, **art. 2**, Sch. (with art. 4); S.S.I. 2006/59, **art. 2**, Sch. (with art. 4); S.S.I. 2007/101, **art. 2**, Sch. (with art. 4); S.S.I. 2007/329, **art. 2**, Sch. (with art. 4); S.S.I. 2008/57, **art. 2** (with art. 3)
- C2** Ss. 271-271M applied (with modifications) (23.12.2015) by [The Justice of the Peace Courts \(Special Measures\) \(Scotland\) Order 2015 \(S.S.I. 2015/447\)](#), arts. 1(2), 3 (with art. 1(3))

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 5A inserted by [2010 asp 13 Sch. 7 para. 26](#)
- s. 13(1B)(1C) inserted by [2006 asp 10 s. 82\(2\)](#)
- s. 13(2)(aa) inserted by [2006 asp 10 s. 82\(3\)\(b\)](#)
- s. 13(3A) inserted by [2006 asp 10 s. 82\(4\)](#)
- s. 13(5)(ba) inserted by [2006 asp 10 s. 82\(5\)\(a\)](#)
- s. 13(6)(a)(iii) and word inserted by [2006 asp 10 s. 82\(6\)\(b\)](#)
- s. 13(8) inserted by [2006 asp 10 s. 82\(7\)](#)
- s. 22(5A) inserted by [2007 asp 6 s. 7\(2\)\(g\)](#)
- s. 22A(1A) inserted by [2023 asp 4 s. 1\(2\)](#)
- s. 23B(1)(1A) substituted for s. 23B(1) by [2023 asp 4 s. 2\(2\)\(a\)](#)
- s. 23B(6A) inserted by [2023 asp 4 s. 1\(3\)\(c\)](#)
- s. 23B(8)-(10) inserted by [2023 asp 4 s. 2\(2\)\(c\)](#)
- s. 23C(1A) inserted by [2023 asp 4 s. 2\(3\)\(b\)](#)
- s. 23C(3) inserted by [2023 asp 4 s. 2\(3\)\(c\)](#)
- s. 24(2C) inserted by [2023 asp 4 s. 4\(4\)](#)
- s. 24(2AA) inserted by [2023 asp 4 s. 4\(2\)](#)
- s. 73A inserted by [2004 asp 3 s. 2\(3\)](#)
- s. 167(7D)(7E) inserted by [2007 asp 17 sch. 4 para. 1\(3\)](#)
- s. 167(7D) words substituted by [2010 asp 13 Sch. 3 para. 16\(2\)](#)
- s. 167(7E) words substituted by [2010 asp 13 Sch. 3 para. 16\(3\)](#)
- s. 194ZA repealed by [2014 asp 18 sch. 3 para. 25](#)
- s. 200A inserted by [2016 asp 1 s. 85](#)
- s. 205A added by [1997 c. 48 s. 1\(1\)](#) (This amendment not applied to legislation.gov.uk. 1997 c. 48, s. 1 repealed (27.6.2003) without ever being in force by [2003 asp 7, s. 19\(3\)](#); S.S.I. 2003/288, art. 2, Sch.)
- s. 210ZA inserted by [2023 asp 4 s. 5](#)
- s. 249(4A)-(4D) inserted by [2014 asp 1 s. 24](#)
- s. 271D(4A) inserted by [2019 asp 8 s. 6\(4\)](#)
- s. 271F(2)(aa) inserted by [2019 asp 8 s. 10\(4\)](#)
- s. 271AA inserted by [2019 asp 8 s. 6\(2\)](#)
- s. 271BZD inserted by [2019 asp 8 s. 3\(2\)](#)
- s. 288AB288AC inserted by [2024 asp 1 s. 32\(3\)](#)
- Sch. 5A added by [1997 c. 48 s. 1\(2\)](#) (This amendment not applied to legislation.gov.uk. 1997 c. 48, s. 1 repealed (27.6.2003) without ever being in force by [2003 asp 7, s. 19\(3\)](#); S.S.I. 2003/288, art. 2, Sch.)