



Criminal Procedure (Scotland) Act 1995

1995 CHAPTER 46

PART XII

EVIDENCE

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

[^{F1}271F The accused

- (1) For the purposes of the application of subsection (1) of section 271 of this Act to the accused (where the accused is giving or is to give evidence at or for the purposes of [^{F2}a hearing in relevant criminal proceedings]), subsection (2) of that section shall have effect as if—
- (a) for paragraph (c) there were substituted—
 - “(c) whether the accused is to be legally represented at [^{F3}the hearing] and, if not, the accused’s entitlement to be so legally represented.”, and
 - (b) for paragraph (e) there were substituted—
 - “(e) any behaviour towards the accused on the part of—
 - (i) any co-accused or any person who is likely to be a co-accused in the proceedings,
 - (ii) any witness or any person who is likely to be a witness in the proceedings, or
 - (iii) members of the family or associates of any of the persons mentioned in sub-paragraphs (i) and (ii) above.”.
- (2) Where, if the accused were to give evidence at or for the purposes of [^{F4}the hearing], he would be a child witness—
- (a) section 271A of this Act shall apply in relation to the accused subject to the following modifications—

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- (i) references to a [F⁵witness] shall be read as if they were references to the accused,
- (ii) references to the party citing or intending to cite a F⁶... witness shall be read as if they were references to the accused, and
- (iii) subsection (6) shall have effect as if for paragraph (a) there were substituted—
 - “(a) it appears to the court that the accused, if he were to give evidence at or for the purposes of [F⁷a hearing in relevant criminal proceedings], would be a child witness.”, and
- (b) section 271B of this Act shall apply in relation to the accused as if—
 - (i) for subsection (1) there were substituted—
 - “(1) This section applies where the accused—
 - (a) if he were to give evidence at or for the purposes of [F⁸a hearing in relevant criminal proceedings] would be a child witness, and
 - (b) is under the age of 12 on the date of commencement of the proceedings.”, and
 - (ii) in subsection (3), references to the child witness were references to the accused.
- (3) Subsection (4) below applies where the accused—
 - (a) considers that, if he were to give evidence at or for the purposes of [F⁹a hearing in relevant criminal proceedings], he would be a vulnerable witness other than a child witness, and
 - (b) has not decided to give evidence without the benefit of any special measures.
- (4) Where this subsection applies, subsections (2) to (11) of section 271C of this Act shall apply in relation to the accused subject to the following modifications—
 - (a) references to the witness shall be read as if they were references to the accused,
 - (b) references to the party citing or intending to cite the witness shall be read as if they were references to the accused, and
 - (c) in subsection (8)(b), the reference to subsection (2)(a) to (f) of section 271 of this Act shall be read as if it were a reference to that subsection as modified by subsection (1) above.
- (5) Section 271D of this Act shall apply in any case where it appears to the court that the accused, if he were to give evidence at or for the purposes of [F¹⁰the hearing], would be a vulnerable witness as it applies in the case referred to in subsection (1) of that section but subject to the following modifications—
 - (a) references to the witness shall be read as if they were references to the accused,
 - (b) references to the party citing or intending to cite the witness shall be read as if they were references to the accused.
- (6) Where the witness within the meaning of section 271E of this Act is the accused, that section shall have effect in relation to the witness as if—
 - (a) in subsection (1), paragraph (a) were omitted, and
 - (b) in subsection (2), the words “The party or, as the case may be,” were omitted.

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- (7) Section 271M of this Act shall have effect, where the vulnerable witness is the accused, as if the reference in subsection (2) to the party citing the vulnerable witness were a reference to the accused.
- (8) The following provisions of this Act shall not apply in relation to a vulnerable witness who is the accused—
- (a) section 271H(1)(c) [^{F11}and (ea)],
 - (b) section 271I(3).]

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** Words in s. 271F(1) substituted (28.3.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), **ss. 87(7)(a)(i)**, 206(1); S.S.I. 2011/178, art. 2, sch.
- F3** Words in s. 271F(1)(a) substituted (28.3.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), **ss. 87(7)(a)(ii)**, 206(1); S.S.I. 2011/178, art. 2, sch.
- F4** Words in s. 271F(2) substituted (28.3.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), **ss. 87(7)(b)(i)**, 206(1); S.S.I. 2011/178, art. 2, sch.
- F5** Word in s. 271F(2)(a)(i) substituted (1.9.2015) by [Victims and Witnesses \(Scotland\) Act 2014 \(asp 1\)](#), **ss. 11(8)(a)**, 34; S.S.I. 2015/200, art. 2(2), sch. (with arts. 1(3), 4)
- F6** Word in s. 271F(2)(a)(ii) repealed (1.9.2015) by [Victims and Witnesses \(Scotland\) Act 2014 \(asp 1\)](#), **ss. 11(8)(b)**, 34; S.S.I. 2015/200, art. 2(2), sch. (with arts. 1(3), 4)
- F7** Words in s. 271F(2) substituted (28.3.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), **ss. 87(7)(b)(ii)**, 206(1); S.S.I. 2011/178, art. 2, sch.
- F8** Words in s. 271F(2) substituted (28.3.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), **ss. 87(7)(b)(iii)**, 206(1); S.S.I. 2011/178, art. 2, sch.
- F9** Words in s. 271F(3) substituted (28.3.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), **ss. 87(7)(c)**, 206(1); S.S.I. 2011/178, art. 2, sch.
- F10** Words in s. 271F(5) substituted (28.3.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), **ss. 87(7)(d)**, 206(1); S.S.I. 2011/178, art. 2, sch.
- F11** Words in s. 271F(8)(a) inserted (1.9.2015) by [Victims and Witnesses \(Scotland\) Act 2014 \(asp 1\)](#), **ss. 20(3)**, 34; S.S.I. 2015/200, art. 2(2), sch. (with arts. 1(3), 4)

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 otherwise 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))

Changes to legislation:

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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.)