



Criminal Procedure (Scotland) Act 1995

1995 CHAPTER 46

PART XII

EVIDENCE

Evidence relating to sexual offences

[^{F1}275 Exceptions to restrictions under section 274.

- (1) The court may, on application made to it, admit such evidence or allow such questioning as is referred to in subsection (1) of section 274 of this Act if satisfied that—
- (a) the evidence or questioning will relate only to a specific occurrence or occurrences of sexual or other behaviour or to specific facts demonstrating—
 - (i) the complainer's character; or
 - (ii) any condition or predisposition to which the complainer is or has been subject;
 - (b) that occurrence or those occurrences of behaviour or facts are relevant to establishing whether the accused is guilty of the offence with which he is charged; and
 - (c) the probative value of the evidence sought to be admitted or elicited is significant and is likely to outweigh any risk of prejudice to the proper administration of justice arising from its being admitted or elicited.
- (2) In subsection (1) above—
- (a) the reference to an occurrence or occurrences of sexual behaviour includes a reference to undergoing or being made subject to any experience of a sexual nature;
 - (b) “the proper administration of justice” includes—
 - (i) appropriate protection of a complainer's dignity and privacy; and
 - (ii) ensuring that the facts and circumstances of which a jury is made aware are, in cases of offences to which section 288C of this Act

Changes to legislation: Criminal Procedure (Scotland) Act 1995, Section 275 is up to date with all changes known to be in force on or before 04 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

applies, relevant to an issue which is to be put before the jury and commensurate to the importance of that issue to the jury's verdict, and, in that subsection and in sub-paragraph (i) of paragraph (b) above, "complainer" has the same meaning as in section 274 of this Act.

- (3) An application for the purposes of subsection (1) above shall be in writing and shall set out—
- (a) the evidence sought to be admitted or elicited;
 - (b) the nature of any questioning proposed;
 - (c) the issues at the trial to which that evidence is considered to be relevant;
 - (d) the reasons why that evidence is considered relevant to those issues;
 - (e) the inferences which the applicant proposes to submit to the court that it should draw from that evidence; and
 - (f) such other information as is of a kind specified for the purposes of this paragraph in Act of Adjournal.
- (4) The party making such an application shall, when making it, send a copy of it—
- (a) when that party is the prosecutor, to the accused; and
 - (b) when that party is the accused, to the prosecutor and any co-accused.
- (5) The court may reach a decision under subsection (1) above without considering any evidence; but, where it takes evidence for the purposes of reaching that decision, it shall do so as if determining the admissibility of evidence.
- (6) The court shall state its reasons for its decision under subsection (1) above, and may make that decision subject to conditions which may include compliance with directions issued by it.
- (7) Where a court admits evidence or allows questioning under subsection (1) above, its decision to do so shall include a statement—
- (a) of what items of evidence it is admitting or lines of questioning it is allowing;
 - (b) of the reasons for its conclusion that the evidence to be admitted or to be elicited by the questioning is admissible;
 - (c) of the issues at the trial to which it considers that that evidence is relevant.
- (8) A condition under subsection (6) above may consist of a limitation on the extent to which evidence—
- (a) to be admitted; or
 - (b) to be elicited by questioning to be allowed,
- may be argued to support a particular inference specified in the condition.
- (9) Where evidence is admitted or questioning allowed under this section, the court at any time may—
- (a) as it thinks fit; and
 - (b) notwithstanding the terms of its decision under subsection (1) above or any condition under subsection (6) above,
- limit the extent of evidence to be admitted or questioning to be allowed.]

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Textual Amendments

- F1** S. 275 substituted (1.11.2002) by [Sexual Offences \(Procedure and Evidence\) \(Scotland\) Act 2002 \(asp 9\)](#), [s. 8\(1\)](#); S.S.I. 2002/443, [art. 3](#) (with [art. 4\(5\)](#))

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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.)