



# Vulnerable Witnesses (Scotland) Act 2004

## 2004 asp 3

### PART 1

#### CRIMINAL PROCEEDINGS

##### *Pre-trial procedure in sheriff court summary proceedings*

#### **9 Summary proceedings in sheriff court: pre-trial procedure where no intermediate diet is fixed**

After section 148A of the 1995 Act there is inserted—

##### **“148B Pre-trial procedure in sheriff court where no intermediate diet is fixed**

- (1) Where, in any summary proceedings in the sheriff court, no intermediate diet is fixed, the court shall, at the trial diet before the first witness is sworn—
  - (a) ascertain whether subsection (2) below applies to any person who is to give evidence at or for the purposes of the trial or to the accused and, if so, consider whether it should make an order under section 271A(7) or 271D(2) of this Act in relation to the person or, as the case may be, the accused, and
  - (b) if—
    - (i) section 288E of this Act applies to the proceedings, or
    - (ii) an order under section 288F(2) has been made in the proceedings,ascertain whether or not the accused has engaged a solicitor for the purposes of his defence at the trial.
- (2) This subsection applies—
  - (a) to a person who is to give evidence at or for the purposes of the trial if that person is, or is likely to be, a vulnerable witness,
  - (b) to the accused if, were he to give evidence at or for the purposes of the trial, he would be, or be likely to be, a vulnerable witness.

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**Changes to legislation:** *Vulnerable Witnesses (Scotland) Act 2004, Cross Heading: Pre-trial procedure in sheriff court summary proceedings is up to date with all changes known to be in force on or before 28 May 2023. 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*

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- (3) Where, following inquiries for the purposes of subsection (1)(b) above, it appears to the court that the accused has not engaged a solicitor for the purposes of his defence at the trial, the court may adjourn the trial diet for a period of not more than 48 hours and ordain the accused then to attend.
- (4) At the trial diet, the court may ask the prosecutor and the accused any question in connection with any matter which it is required to ascertain or consider under subsection (1) above.”.

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#### **Commencement Information**

- I1** S. 9 in force at 1.4.2007 for specified purposes by S.S.I. 2007/101, art. 2, **Sch.** (with art. 4)
- I2** S. 9 in force at 1.4.2008 in so far as not already in force by S.S.I. 2008/57, **art. 2** (with art. 3)

**Changes to legislation:**

Vulnerable Witnesses (Scotland) Act 2004, Cross Heading: Pre-trial procedure in sheriff court summary proceedings is up to date with all changes known to be in force on or before 28 May 2023. 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.

[View outstanding changes](#)

**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. 11A11B inserted by [2020 asp 16 s. 4\(3\)](#)
- s. 12(3A) inserted by [2020 asp 16 s. 4\(4\)](#)
- s. 12(6A) inserted by [2020 asp 16 s. 5\(2\)](#)
- s. 22B-22D inserted by [2020 asp 16 s. 4\(5\)](#)