



# Criminal Justice and Licensing (Scotland) Act 2010

2010 asp 13

## PART 3

### CRIMINAL PROCEDURE

#### *Personal conduct of case by accused*

#### **69 Prohibition of personal conduct of case by accused in certain proceedings**

- (1) The 1995 Act is amended as follows.
- (2) In section 288C (prohibition of personal conduct of defence in cases of certain sexual offences)—
  - (a) for subsection (1) substitute—

“(1) An accused charged with a sexual offence to which this section applies is prohibited from conducting his case in person at, or for the purposes of, any relevant hearing in the course of proceedings (other than proceedings in a JP court) in respect of the offence.

(1A) In subsection (1), “relevant hearing” means a hearing at, or for the purposes of, which a witness is to give evidence.”, and
  - (b) subsection (8) is repealed.
- (3) In section 288D (appointment of solicitor by court in cases to which section 288C applies)—
  - (a) in subsection (1), after “proceedings” insert “(other than proceedings in a JP court)”,
  - (b) in subsection (2)(a), for sub-paragraphs (i) and (ii) substitute—

“(i) the conduct of his case at, or for the purposes of, any relevant hearing (within the meaning of section 288C(1A)) in the proceedings; or”, and
  - (c) in subsection (6), for the words from “of the accused’s defence” to the end substitute “referred to in subsection (2)(a) above.”.

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*Status: This is the original version (as it was originally enacted).*

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- (4) In section 288E (prohibition of personal conduct of defence in certain cases involving child witness under the age of 12)—
- (a) subsection (1) is repealed,
  - (b) in subsection (2)(b), for “the trial” substitute “any hearing in the course of the proceedings”,
  - (c) after subsection (2) insert—
    - “(2A) The accused is prohibited from conducting his case in person at, or for the purposes of, any hearing at, or for the purposes of, which the child witness is to give evidence.”,
  - (d) in subsection (4), at the end insert “and as if references to a relevant hearing were references to a hearing referred to in subsection (2A) above”,
  - (e) in subsection (6)—
    - (i) for paragraphs (za) and (a) substitute—
      - “(a) that his case at, or for the purposes of, any hearing in the course of the proceedings at, or for the purposes of, which the child witness is to give evidence may be conducted only by a lawyer,”, and
    - (ii) in paragraph (c), for the words from “preliminary” to “trial” substitute “hearing”, and
  - (f) subsection (8) is repealed.
- (5) In section 288F (power to prohibit personal conduct of defence in other cases involving vulnerable witnesses)—
- (a) in subsection (1), for “the trial” substitute “any hearing in the course of the proceedings”,
  - (b) in subsection (2), for the words from “defence” to the end substitute “case in person at any hearing at, or for the purposes of, which the vulnerable witness is to give evidence.”,
  - (c) in subsection (3)(a), for “trial” substitute “hearing”,
  - (d) in subsection (4), for the words from “after” to the end substitute “in relation to a hearing after, as well as before, the hearing has commenced.”,
  - (e) subsection (4A) is repealed,
  - (f) in subsection (5), at the end insert “and as if references to a relevant hearing were references to any hearing in respect of which an order is made under this section”, and
  - (g) subsection (6) is repealed.