



# Victims and Witnesses (Scotland) Act 2014 2014 asp 1

## *Vulnerable witnesses*

### **10 Vulnerable witnesses: main definitions**

In section 271 of the 1995 Act (vulnerable witnesses: main definitions)—

(a) for subsection (1), substitute—

“(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),
  - (iv) an offence the commission of which involves domestic abuse, or
  - (v) an offence of stalking, or

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*Changes to legislation: There are currently no known outstanding effects for the Victims and Witnesses (Scotland) Act 2014, Section 10. (See end of Document for details)*

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- (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.”,
- (b) after subsection (1), insert—
  - “(1AA) The Scottish Ministers may by order subject to the affirmative procedure modify subsection (1)(c).”,
- (c) subsection (1A) is repealed,
- (d) in subsection (2), after “(1)(b)” insert “ or (d) ”, and
- (e) after subsection (4), insert—
  - “(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.”.

**Annotations:**

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**Commencement Information**

- II** S. 10 in force at 1.9.2015 with effect in accordance with art. 1(3) by [S.S.I. 2015/200](#), [art. 2\(2\)](#), [Sch.](#) (with [art. 4](#))

**Changes to legislation:**

There are currently no known outstanding effects for the Victims and Witnesses (Scotland) Act 2014, Section 10.