

CRIMINAL JUSTICE (SCOTLAND) ACT 2016

EXPLANATORY NOTES

OVERVIEW OF THE ACT

Part 6 - Miscellaneous

Chapter 4 – Statements and procedure

Use of technology

Section 110 – Live television links

Inserted section 288I – Evidence and personal appearance

283. Subsection (1) precludes evidence as to a charge against the detained person on a complaint or indictment being led at a hearing in which the detained person is participating by means of a TV link. It would therefore not be possible for a trial in which evidence is being led to proceed with the accused participating by TV link.
284. Subsection (2) gives the court the power to revoke, before or during a hearing, a determination (under section 288H(1)) that the accused is to participate at the hearing by TV link and subsection (2)(b) requires that the court exercise the power to revoke the determination if it considers that it is in the interests of justice for the detained person to appear in person. The court might consider revocation of its previous determination if, for example, a technical issue arises with the link itself, or when further information comes to light during the substantive hearing which, in the view of the court, makes it no longer appropriate to proceed by way of TV link.
285. In the event that the court decides not to proceed with the appearance of the accused by TV link, or revokes an earlier determination to allow proceedings via TV link, practical difficulties might arise – the accused may well need to be brought to court, which might not be readily achievable on the same day, so postponement of the hearing could be necessary. Subsection (3) allows the court, in these circumstances, to postpone the hearing to a later day. The effect of a postponement under this section is detailed in inserted section 288IA.