

DOMESTIC ABUSE (SCOTLAND) ACT 2018

EXPLANATORY NOTES

THE STRUCTURE AND A SUMMARY OF THE ACT

Part 2 – Further and Final Matters

The schedule – details

Part 1 – rules of criminal procedure

Chapter 3 – vulnerable witnesses and expert evidence

Special measures for vulnerable witnesses

73. Section 271B of the 1995 Act provides for rules relating to special provision for child witnesses under the age of 12. The effect of section 271B is to ensure that the views of the child in question are taken into account by the court when deciding whether the child should give evidence in the court room in relation to certain serious offences.
74. Paragraph 6 of the schedule makes a change to section 271B of the 1995 Act so that these rules also operate for cases involving the new offence under section 1(1) of this Act or an aggravation under section 1(1)(a) of the 2016 Act.

Presentation of certain expert evidence

75. Section 275C of the 1995 Act provides that, in cases involving those sexual offences to which section 288C applies, expert psychological or psychiatric evidence relating to subsequent behaviour of, or statements by, the complainer is admissible to rebut inferences which may be drawn from such behaviour or statement as to the complainer's credibility or reliability as a witness.
76. Paragraph 7(2) of the schedule extends the admissibility of such evidence to the subsequent behaviour of, or statements by, complainers in domestic abuse cases, that is in trials relating to the new offence under section 1(1) of this Act or offences aggravated under section 1(1)(a) of the 2016 Act. As the domestic abuse offence in section 1(1) of this Act is an offence committed by a course of conduct, paragraph 7(2)(b) inserts provision to clarify that the expert evidence is admissible in respect of any behaviour or statements subsequent to any part of that course of conduct.