

# **VULNERABLE WITNESSES (CRIMINAL EVIDENCE) (SCOTLAND) ACT 2019**

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## **EXPLANATORY NOTES**

### **THE ACT**

#### *Child witnesses*

#### *Section 2 – Child witnesses under the age of 12*

23. [Section 2\(2\)](#) amends section 271B of the 1995 Act by inserting new subsections (4A) and (7). Section 271B makes provision about the special measures that are appropriate for taking the evidence of child witnesses under the age of 12 in certain criminal proceedings. There is some overlap between section 271B and the new rule in section 271BZA. If section 271B were not amended by the Act, there would be cases in which both sections would apply. For example, both sections would apply in a murder case involving a child witness aged 11. Subsection (7) is therefore inserted. It provides that section 271B does not apply in a case to which section 271BZA applies.
24. Inserted subsection (4A) is to clarify how section 271A(5)(a) should operate in a case to which section 271B applies. Even if the vulnerable witness notice does not specify a special measure which would result in the child witness having to be present in the courtroom for the purpose of giving evidence, an order made by the court under section 271A(5)(a) may have that effect if the court is required by section 271B(4) to make an order having that effect.
25. [Section 2\(3\)](#) amends section 271A(9) and (10) to make it clear that the court's power to make orders under those subsections is subject to section 271B.