

2007 No. 447 (C. 36)

COURT OF SESSION

SHERIFF COURT

**The Vulnerable Witnesses (Scotland) Act 2004 (Commencement
No. 6, Savings and Transitional Provisions) Order 2007**

Made - - - -

3rd October 2007

The Scottish Ministers make the following Order in exercise of the powers conferred by section 25 of the Vulnerable Witnesses (Scotland) Act 2004(a).

Citation

1. This Order may be cited as the Vulnerable Witnesses (Scotland) Act 2004 (Commencement No. 6, Savings and Transitional Provisions) Order 2007.

Interpretation

2. In this Order—

“the 1995 Act” means the Children (Scotland) Act 1995(b); and

“the 2004 Act” means the Vulnerable Witnesses (Scotland) Act 2004.

Appointed day

3.—(1) Subject to paragraph (2) below, 1st November 2007 is the day appointed for the coming into force of the provisions of the 2004 Act set out in column 1 of the table of commencements in the Schedule to this Order.

(2) Where in relation to any provision referred to in paragraph (1) a particular purpose is specified in column 2 of the table of commencements in the Schedule to this Order, that provision shall come into force on the appointed day only for that purpose.

(a) 2004 asp 3.

(b) 1995 c.36; section 68A was inserted by the Vulnerable Witnesses (Scotland) Act 2004 (asp 3), section 23.

Saving and Transitional Provisions

4. The provisions brought into force by this Order shall apply only to proceedings commenced on or after 1st November 2007, with proceedings being taken to have commenced when the petition, summons, initial writ or other document initiating the proceedings is served, and, where the document is served on more than one person, the proceedings shall be taken to have commenced when the document is served on the first person on whom it is served.

St Andrew's House,
Edinburgh
3rd October 2007

KENNY MACASKILL
A member of the Scottish Executive

SCHEDULE

Article 3

Table of Commencements of the 2004 Act

<i>Column 1</i> <i>Provisions to be commenced</i>	<i>Column 2</i> <i>Purpose for which the provisions are to be commenced</i>
Sections 11 to 17, 18(1)(b) to (e) and (2), and 20 to 22 insofar as not already commenced	
Sections 18(1)(a) and 19 insofar as not already commenced	<p>Only in respect of proceedings other than proceedings in respect of—</p> <ul style="list-style-type: none"> (a) applications under section 65(7) or 65(9) of the 1995 Act to which section 68A(1)(a) of that Act applies; and (b) applications under section 85 of the 1995 Act to which section 68A(1)(b) of that Act applies.

EXPLANATORY NOTE

(This note is not part of the Order)

This Commencement Order brings into force sections 11 to 17, section 18(1)(b) to (e) and (2) and sections 20 to 22 of the Vulnerable Witnesses (Scotland) Act 2004 (“the 2004 Act”) insofar as not already in force. It also brings into force sections 18(1)(a) and 19 of the 2004 Act, insofar as not already in force, for the purpose indicated in the Schedule to this Order.

In effect, the special measures provided for in the above sections of the 2004 Act (with the exception of taking evidence by a commissioner, in sections 18(1)(a) and 19) may now be used, where appropriate, in respect of child and other vulnerable witnesses in all civil proceedings as defined in section 11(5) of the 2004 Act (interpretation of this Part). This includes proceedings in any of the ordinary courts of law and any proceedings to which section 91 (procedural rules in relation to certain applications etc.) of the Children (Scotland) Act 1995 (“the 1995 Act”) applies.

The special measure of taking evidence by a commissioner may now be used, where appropriate, in respect of child and other vulnerable witnesses in all civil proceedings within the meaning of section 11(5) of the 2004 Act, other than those in relation to applications to the sheriff under sections 65(7), 65(9) and 85 of the 1995 Act to which section 68A of that Act applies (restrictions on evidence in certain cases involving sexual abuse).

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.S.I. No.</i>
Sections 1 (partially), 2 (partially), 3 (partially), 4, 5, 6 (partially), 7(1) and (3) (partially), 8 (partially), 11(1)(a), (3) and (5) (partially), 12(1) to (4) (partially), 13 (partially), 14 (partially), 15 (partially), 16 (partially), 17(1) and (2) (partially), 18 (partially), 20 (partially), 21 (partially), 22 (partially), 23 and 24	1st April 2005	2005/168
Sections 1 (partially), 3 (partially), 11(1)(a), (3) and (5) (partially), 12(1) to (4) (partially), 13 (partially), 14 (partially), 15 (partially), 16 (partially), 17(2) (partially), 18 (partially), 19 (partially), 20 (partially), 21 (partially) and 22 (partially)	30th November 2005	2005/590
Sections 1 (partially), 2 (partially), 3 (partially), 6 (partially), 7(1) and (3) (partially), 11 (partially), 12 (partially), 13 (partially), 14 (partially), 15 (partially), 16 (partially), 17(2) (partially), 18(1)(a) to 18(1)(e) (partially), 18(2) (partially), 19 (partially), 20 (partially), 21 (partially) and 22 (partially)	1st April 2006	2006/59

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.S.I. No.</i>
Sections 1 (partially), 2 (5)(partially), 3 (partially), 6 (partially), 8 (partially) and 9 (partially)	1st April 2007	2007/101
Sections 1 (partially) and 3 (partially)	2nd July 2007	2007/329

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