



Criminal Procedure (Scotland) Act 1995

1995 CHAPTER 46

PART XIII

MISCELLANEOUS

Certain rights of accused

290 Accused's right to request identification parade.

- (1) Subject to subsection (2) below, the sheriff may, on an application by an accused at any time after the accused has been charged with an offence, order that, in relation to the alleged offence, the prosecutor shall hold an identification parade in which the accused shall be one of those constituting the parade.
- (2) The sheriff shall make an order in accordance with subsection (1) above only after giving the prosecutor an opportunity to be heard and only if—
 - (a) an identification parade, such as is mentioned in subsection (1) above, has not been held at the instance of the prosecutor;
 - (b) after a request by the accused, the prosecutor has refused to hold, or has unreasonably delayed holding, such an identification parade; and
 - (c) the sheriff considers the application under subsection (1) above to be reasonable.

291 Precognition on oath of defence witnesses.

- (1) The sheriff may, on the application of an accused, grant warrant to cite any person (other than a co-accused), who is alleged to be a witness in relation to any offence of which the accused has been charged, to appear before the sheriff in chambers at such time or place as shall be specified in the citation, for precognition on oath by the accused or his solicitor in relation to that offence, if the court is satisfied that it is reasonable to require such precognition on oath in the circumstances.
- (2) Any person who, having been duly cited to attend for precognition under subsection (1) above and having been given at least 48 hours notice, fails without

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Changes to legislation: Criminal Procedure (Scotland) Act 1995, Cross Heading: Certain rights of accused is up to date with all changes known to be in force on or before 08 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

reasonable excuse to attend shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale or to imprisonment for a period not exceeding 21 days; and the court may issue a warrant for the apprehension of the person concerned, ordering him to be brought before a sheriff for precognition on oath.

(3) Any person who, having been duly cited to attend for precognition under subsection (1) above, attends but—

- (a) refuses to give information within his knowledge or to produce evidence in his possession; or
- (b) prevaricates in his evidence,

shall be guilty of an offence and shall be liable to be summarily subjected forthwith to a fine not exceeding level 3 on the standard scale or to imprisonment for a period not exceeding 21 days.

[^{F1}(4) This section does not, however, extend to the citation of the complainer for precognition by the accused in person.

(5) In subsection (4) above, “complainer” has the same meaning as in section 274 of this Act.]

[^{F2}(6) A warrant is not to be granted under this section for the citation for precognition by the accused in person of any child under the age of 12 on the relevant date where the offence in relation to which the child is alleged to be a witness is one specified in section 288E(3) of this Act.

(7) In subsection (6) above, “the relevant date” means—

- (a) where an indictment or complaint in respect of the offence has been served on the accused at the time of the application, the date on which the indictment or complaint was so served, or
- (b) where an indictment or complaint in respect of the offence has not been so served, the date on which the application under subsection (1) above is made.]

Textual Amendments

F1 S. 291(4)(5) inserted (1.11.2002) by [Sexual Offences \(Procedure and Evidence\) \(Scotland\) Act 2002](#) (asp 9), s. 4; S.S.I. 2002/443, art. 3

F2 S. 291(6)(7) inserted (1.4.2005 for certain purposes and 1.4.2007 for further purposes and otherwise prosp.) by [Vulnerable Witnesses \(Scotland\) Act 2004](#) (asp 3), ss. 8, 25; S.S.I. 2005/168, art. 2, Sch. (with savings in art. 4); S.S.I. 2007/101, art. 2, Sch. (with art. 4)

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