



Criminal Procedure (Scotland) Act 1995

1995 CHAPTER 46

PART XII

EVIDENCE

[^{F1}Special measures for child witnesses and other vulnerable witnesses]

[^{F1}271I Taking of evidence by a commissioner

(1) Where the special measure to be used is taking of evidence by a commissioner, the court shall appoint a commissioner to take the evidence of the vulnerable witness in respect of whom the special measure is to be used.

[Proceedings before a commissioner appointed under subsection (1) above shall, if the ^{F2}(1A) court so directed when authorising such proceedings, take place by means of a live television link between the place where the commissioner is taking, and the place from which the witness is giving, evidence.]

(2) Proceedings before a commissioner appointed under subsection (1) above shall be recorded by video recorder.

(3) An accused—

- (a) shall not, except by leave of the court on special cause shown, be [^{F3} present—
 - (i) in the room where such proceedings are taking place; or
 - (ii) if such proceedings are taking place by means of a live television link, in the same room as the witness] , but

(b) is entitled by such means as seem suitable to the court to watch and hear the proceedings.

(4) The recording of the proceedings made in pursuance of subsection (2) above shall be received in evidence without being sworn to by witnesses.

[Sections—

^{F4}(5) (a) 274;

Status: Point in time view as at 01/09/2015. This version of this provision has been superseded.

Changes to legislation: Criminal Procedure (Scotland) Act 1995, Section 2711 is up to date with all changes known to be in force on or before 09 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)

- (b) 275;
- (c) 275B except subsection (2)(b);
- (d) 275C;
- (e) 288C;
- (f) 288E; and
- (g) 288F,

of this Act apply in relation to proceedings before a commissioner appointed under subsection (1) above as they apply in relation to a trial.

- (6) In the application of those sections in relation to such proceedings—
 - (a) the commissioner acting in the proceedings is to perform the functions of the court as provided for in those sections;
 - (b) references—
 - (i) in those sections, except section 275(3)(c) and (7)(c), to a trial or a trial diet;
 - (ii) in those sections, except sections 275(3)(e) and 288F(2), (3) and (4), to the court,
 shall be read accordingly;
 - (c) the reference in section 275B(1) to 14 days shall be read as a reference to 7 days.
- (7) In a case where it falls to the court to appoint a commissioner under subsection (1) above, the commissioner shall be a person described in subsection (8) below.
- (8) The persons are—
 - (a) where the proceedings before the commissioner are for the purposes of a trial in the High Court, a judge of the High Court; or
 - (b) in any other case, a sheriff.]]

Textual Amendments

- F1** Ss. 271-271M and preceding cross-heading substituted for s. 271 (1.4.2005, 30.11.2005, 1.4.2006, 1.4.2007 and 2.7.2007 for certain purposes, otherwise 1.4.2008) by [Vulnerable Witnesses \(Scotland\) Act 2004 \(asp 3\)](#), **ss. 1, 25**; S.S.I. 2005/168, **art. 2**, Sch. (with savings in **art. 4**); S.S.I. 2005/590, **art. 2**, Sch. (with **art. 4**); S.S.I. 2006/59, **art. 2**, Sch. (with **art. 4(1)**); S.S.I. 2007/101, **art. 2**, Sch. (with **art. 4**); S.S.I. 2007/329, **art. 2**, Sch. (with **art. 4**); S.S.I. 2008/57, **art. 2** (with **art. 3**)
- F2** S. 271I(1A) inserted (23.4.2007) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#), **ss. 35(3)(a)**, 84; S.S.I. 2007/250, **art. 3(a)**
- F3** Words in s. 271I(3)(a) substituted (23.4.2007) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#), **ss. 35(3)(b)**, 84; S.S.I. 2007/250, **art. 3(a)**
- F4** S. 271I(5)-(8) added (23.4.2007) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#), **ss. 35(3)(c)**, 84; S.S.I. 2007/250, **art. 3(a)**

Modifications etc. (not altering text)

- C1** Ss. 271-271M applied by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#), s. 15A (as inserted (1.4.2005, 30.11.2005, 1.4.2006, 1.4.2007 and 2.7.2007 for certain purposes and otherwise 1.4.2008) by [Vulnerable Witnesses \(Scotland\) Act 2004 \(asp 3\)](#), **ss. 3, 25**; S.S.I. 2005/168, **art. 2**, Sch. (with savings in **art. 4**); S.S.I. 2005/590, **art. 2**, Sch. (with **art. 4**); S.S.I. 2006/59, **art. 2**, Sch. (with **art. 4**); S.S.I. 2007/101, **art. 2**, Sch. (with **art. 4**); S.S.I. 2007/329, **art. 2**, Sch. (with **art. 4**)); S.S.I. 2008/57, **art. 2** (with **art. 3**)

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