



# Criminal Procedure (Scotland) Act 1995

## 1995 CHAPTER 46

### PART XIII

#### MISCELLANEOUS

##### *Certain rights of accused*

#### **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 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.

*Changes to legislation: Criminal Procedure (Scotland) Act 1995, Section 291 is up to date with all changes known to be in force on or before 22 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) View outstanding changes*

[<sup>F1</sup>(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.]

[<sup>F2</sup>(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](#))

**Changes to legislation:**

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[View outstanding changes](#)

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 5A inserted by 2010 asp 13 Sch. 7 para. 26
- s. 13(1B)(1C) inserted by 2006 asp 10 s. 82(2)
- s. 13(2)(aa) inserted by 2006 asp 10 s. 82(3)(b)
- s. 13(3A) inserted by 2006 asp 10 s. 82(4)
- s. 13(5)(ba) inserted by 2006 asp 10 s. 82(5)(a)
- s. 13(6)(a)(iii) and word inserted by 2006 asp 10 s. 82(6)(b)
- s. 13(8) inserted by 2006 asp 10 s. 82(7)
- s. 22(5A) inserted by 2007 asp 6 s. 7(2)(g)
- s. 22A(1A) inserted by 2023 asp 4 s. 1(2)
- s. 23B(1)(1A) substituted for s. 23B(1) by 2023 asp 4 s. 2(2)(a)
- s. 23B(6A) inserted by 2023 asp 4 s. 1(3)(c)
- s. 23B(8)-(10) inserted by 2023 asp 4 s. 2(2)(c)
- s. 23C(1A) inserted by 2023 asp 4 s. 2(3)(b)
- s. 23C(3) inserted by 2023 asp 4 s. 2(3)(c)
- s. 24(2C) inserted by 2023 asp 4 s. 4(4)
- s. 24(2AA) inserted by 2023 asp 4 s. 4(2)
- s. 73A inserted by 2004 asp 3 s. 2(3)
- s. 167(7D)(7E) inserted by 2007 asp 17 sch. 4 para. 1(3)
- s. 167(7D) words substituted by 2010 asp 13 Sch. 3 para. 16(2)
- s. 167(7E) words substituted by 2010 asp 13 Sch. 3 para. 16(3)
- s. 194ZA repealed by 2014 asp 18 sch. 3 para. 25
- s. 200A inserted by 2016 asp 1 s. 85
- s. 205A added by 1997 c. 48 s. 1(1) (This amendment not applied to legislation.gov.uk. 1997 c. 48, s. 1 repealed (27.6.2003) without ever being in force by 2003 asp 7, s. 19(3); S.S.I. 2003/288, art. 2, Sch.)
- s. 210ZA inserted by 2023 asp 4 s. 5
- s. 249(4A)-(4D) inserted by 2014 asp 1 s. 24
- s. 271D(4A) inserted by 2019 asp 8 s. 6(4)
- s. 271F(2)(aa) inserted by 2019 asp 8 s. 10(4)
- s. 271AA inserted by 2019 asp 8 s. 6(2)
- s. 271BZD inserted by 2019 asp 8 s. 3(2)
- s. 288AB288AC inserted by 2024 asp 1 s. 32(3)
- Sch. 5A added by 1997 c. 48 s. 1(2) (This amendment not applied to legislation.gov.uk. 1997 c. 48, s. 1 repealed (27.6.2003) without ever being in force by 2003 asp 7, s. 19(3); S.S.I. 2003/288, art. 2, Sch.)