

These notes relate to the Vulnerable Witnesses (Scotland) Act 2004 (asp 3) which received Royal Assent on 14 April 2004

VULNERABLE WITNESSES (SCOTLAND) ACT 2004

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1 – Criminal Proceedings

Section 1 – Evidence of children and other vulnerable witnesses: special measures

Section 271F – The accused

28. This section sets out the provisions for allowing an accused, if considered to be vulnerable, to give his or her evidence with the use of a special measure. The provisions of sections 271 to 271M will apply to the accused as a vulnerable witness, but with certain modifications.
29. **Section 271** is modified for the accused by amending the factors to be taken into account under section 271(2) in determining vulnerability, including the fact that the accused is entitled to or will have legal representation. The accused is also not entitled to use screens as a special measure for the giving of his or her evidence.
30. In most cases it will not be known whether the accused is to give evidence until the last minute. The modifications made by this section ensure that special measures are considered for the accused in advance of the trial but on a contingent basis.