

VULNERABLE WITNESSES (CRIMINAL EVIDENCE) (SCOTLAND) ACT 2019

EXPLANATORY NOTES

THE ACT

Notification procedure for standard special measures

Section 6 – Using only standard special measures

43. **Section 6(2)** inserts new section 271AA in the 1995 Act. This provides for a simplified procedure to apply in cases where the party citing a child witness or deemed vulnerable witness considers that it is most appropriate for the witness to give evidence with the benefit of one or more standard special measures and no other special measures. (The terms “child witness” and “deemed vulnerable witness” are defined in section 271(5).) In those cases, the party need not lodge a vulnerable witness notice under section 271A but must instead provide the clerk of court and the other parties to the proceedings with the information set out in subsection (2) of the inserted section. If the party provides the information to the clerk of court by the required time, the witness is entitled to the benefit of the standard special measures which the party specified as being the most appropriate.
44. The party may provide the information to the clerk of court at any time before a date has been fixed for a preliminary hearing, first diet or evidential hearing. If they do not do so before a date is fixed for a preliminary hearing or first diet, they must do so no later than 14 clear days before the preliminary hearing or (if it is a first diet) no later than seven clear days before the first diet. If a date is fixed for an evidential hearing in a case where the proceedings are not to take place in the High Court or on indictment in the sheriff court, the deadline is no later than 14 clear days before the evidential hearing. If the party does not meet the deadline, the simplified procedure cannot be used but the court may allow the party to lodge a vulnerable witness notice in accordance with section 271A.
45. The simplified procedure is not available in cases to which section 271BZA or 271B applies. In those cases, the party must lodge a vulnerable witness notice in accordance with section 271A even if they are requesting only standard special measures.
46. **Section 6(3) to (5)** makes consequential amendments to sections 271A, 271D and 271E. The effect of the amendment made by subsection (4) to section 271D is that the court may review the arrangements for taking a vulnerable witness’s evidence under that section even if the arrangements were the result of the party notifying the clerk of the court of the standard special measures which were to apply in accordance with the simplified procedure. The effect of the amendment made by subsection (5) to section 271E(1) is that a party considering which special measures are most appropriate for the purposes of the simplified procedure must have regard to the witness’s best interests and take into account their views (and the views of their parents, if the witness is a child) in the same way that they would if they were lodging a vulnerable witness notice.