

VULNERABLE WITNESSES (CRIMINAL EVIDENCE) (SCOTLAND) ACT 2019

EXPLANATORY NOTES

THE ACT

Timeframes for vulnerable witness notices

Section 7 – Timeframe for considering vulnerable witness notice

47. **Section 7** amends section 271A(3A) so that, in cases where a vulnerable witness notice specifies only a standard special measure, the court may consider the notice as soon as it has been lodged, without having to wait for seven days before considering it. The requirement to wait for seven days remains in place in cases where the notice specifies measures other than standard special measures because, in those cases, another party to the proceedings may object to the measures specified within those first seven days.
48. The amendments will not be relevant in many of the cases in which a party considers that standard special measures are the most appropriate because in many of the cases, there will be no vulnerable witness notice as the new simplified notification procedure will be used (see paragraphs 43 to 46 of these Explanatory Notes). However, the amendment will be relevant in cases where a vulnerable witness notice is lodged because the simplified notification procedure is not available to the party, for example, if section 271BZA or 271B applies or if the party does not meet the deadline for the simplified notification procedure but the court allows the party to lodge a vulnerable witness notice instead.

Section 8 – Vulnerable witness notice: lodging deadline

49. **Section 8** amends section 271A(13A) by altering the deadline by which a vulnerable witness notice must be lodged. At the time when a party is considering lodging a vulnerable witness notice, it might not yet be clear whether the criminal proceedings will take place in the High Court or the sheriff court or whether they will be solemn or summary proceedings. If that is not known, there will be no certainty as to which of the deadlines set out in section 271A(13A) is the applicable deadline. The effect of the amendment is that a vulnerable witness notice may be lodged at any time before a date has been fixed for a preliminary hearing, first diet or evidential hearing. If it is not lodged before a date is fixed for a preliminary hearing or first diet, it must be lodged 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 notice must be lodged no later than 14 clear days before the evidential hearing.