



# Vulnerable Witnesses (Criminal Evidence) (Scotland) Act 2019

## 2019 asp 8

### *Notification procedure for standard special measures*

#### **6 Using only standard special measures**

- (1) The Criminal Procedure (Scotland) Act 1995 is amended as follows.
- (2) After section 271A, insert—

#### **“271AA Using only standard special measures**

- (1) This section applies where—
  - (a) a child witness or a deemed vulnerable witness is to give evidence at, or for the purposes of, a hearing in relevant criminal proceedings, and
  - (b) the party citing or intending to cite the witness considers that it is most appropriate for the witness to give evidence with the benefit of—
    - (i) one or more standard special measures, and
    - (ii) no other special measure.
- (2) The party must, by the required time, lodge with the clerk of court a notice specifying—
  - (a) the standard special measure or measures that the party considers to be the most appropriate for the purpose of taking the witness’s evidence,
  - (b) whether the witness is a child witness or a deemed vulnerable witness,
  - (c) if the witness is a child witness, the witness’s age, and
  - (d) such other information as may be prescribed by Act of Adjournal.
- (3) The party lodging a notice with the clerk of court under subsection (2) must, at the same time, intimate the notice to the other parties to the proceedings.
- (4) If the party lodges a notice with the clerk of court by the required time, the witness is entitled to the benefit of the standard special measure or measures specified in the notice as if the use of that measure or measures were authorised by an order made by the court under section 271A(5)(a).

- (5) If the party does not lodge a notice with the clerk of court by the required time, the court may, on cause shown, allow the party to lodge a vulnerable witness notice in accordance with section 271A (despite its being lodged later than the deadline for lodging a vulnerable witness notice).
- (6) In this section, the “required time” means—
- (a) any time before a date has been fixed for one of the following—
    - (i) a preliminary hearing in the High Court,
    - (ii) a first diet in the sheriff court, or
    - (iii) a hearing at which the evidence is to be given, or
  - (b) if a date has been fixed—
    - (i) for a preliminary hearing in the High Court, no later than 14 clear days before the preliminary hearing,
    - (ii) for a first diet in the sheriff court in the case of proceedings on indictment, no later than 7 clear days before the first diet, or
    - (iii) in a case in which the proceedings are not to take place in the High Court or on indictment in the sheriff court, for a hearing at which the evidence is to be given, no later than 14 clear days before that hearing.
- (7) This section does not apply in a case to which section 271B or 271BZA applies.”.
- (3) In section 271A—
- (a) in subsection (2), for “A party” substitute “Subject to section 271AA, a party”,
  - (b) in subsection (6)(b), after “above” insert “or lodged a notice with the clerk of court in accordance with section 271AA by the time specified in that section”,
  - (c) in subsection (6)(c), after “above” insert “or under section 271AA(5)”,
  - (d) in subsection (14), after “section” in the first place where it occurs insert “and section 271AA”.
- (4) In section 271D, after subsection (4), insert—
- “(4A) In a case in which a notice has been provided to the clerk of court in accordance with section 271AA(2), this section is to have effect as if the special measure or measures specified in the notice were authorised by an order under section 271A.”.
- (5) In section 271E(1)(a), after “notice” in the first place where it occurs insert “, a notice that is to be lodged with the clerk of court under section 271AA”.