

CORONAVIRUS (SCOTLAND) ACT 2020

EXPLANATORY NOTES

DETAIL ABOUT PROVISIONS

Schedule 4 – Justice

Part 5 – Evidence

Exceptions to the rule that hearsay evidence is inadmissible

152. Section 259 of the Criminal Procedure (Scotland) Act 1995 (“the 1995 Act”) provides for exceptions to the general rule that hearsay evidence is inadmissible. Under this section, evidence of a statement made by a person otherwise than while giving evidence in court shall be admissible as evidence of any matter contained in the statement as long as the judge is satisfied of the matters contained in section 259(1)(a) to (d) and where the person who made the statement will not give evidence in the proceedings of such matter for any of the reasons mentioned in section 259(2).
153. Paragraph 11 of schedule 4 modifies section 259 of the 1995 Act insofar as it relates to the reasons why a person will not give evidence in the proceedings. The provision broadens the scope of cases in which an application may be made to have evidence of a statement admitted by virtue of section 259(1).
154. Paragraph 11(2)(b) modifies section 259 by inserting a new subsection (2A), which provides that the reasons referred to in paragraph (a) of subsection (1) also include that to have the person who made the statement physically attend the trial would give rise to a particular risk to the person’s wellbeing attributable to coronavirus, or of transmitting coronavirus to others, and that it is not reasonably practicable for the person to give evidence in any other competent manner.