



# Criminal Procedure (Scotland) Act 1995

## 1995 CHAPTER 46

### PART XII

#### EVIDENCE

##### *[<sup>F1</sup>Witness statements*

#### Textual Amendments

- F1** S. 261A and cross-heading inserted (6.6.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010](#) (asp 13), [ss. 85\(2\), 206\(1\)](#); [S.S.I. 2011/178](#), art. 2, sch.

#### **261A** Witness statements: use during trial

- (1) Subsection (2) applies where—
- (a) a witness is giving evidence in criminal proceedings,
  - (b) the witness has made a prior statement,
  - (c) the prosecutor has seen or has been given an opportunity to see the statement, and
  - (d) the accused (or a solicitor or advocate acting on behalf of the accused in the proceedings) has seen or has been given an opportunity to see the statement.
- (2) The court may allow the witness to refer to the statement while the witness is giving evidence.]

#### **262** Construction of sections 259 to [<sup>F2</sup>261A].

- (1) For the purposes of sections 259 to [<sup>F3</sup>261A] of this Act, a “statement” includes—
- (a) any representation, however made or expressed, of fact or opinion; and
  - (b) any part of a statement,
- but does not include a statement in a precognition other than a precognition on oath.

*Status: Point in time view as at 06/11/2019.*

*Changes to legislation: Criminal Procedure (Scotland) Act 1995, Cross Heading: Witness statements is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (2) For the purposes of the said sections 259 to [F4261A] a statement is contained in a document where the person who makes it—
- (a) makes the statement in the document personally;
  - (b) makes a statement which is, with or without his knowledge, embodied in a document by whatever means or by any person who has direct personal knowledge of the making of the statement; or
  - (c) approves a document as embodying the statement.
- (3) In the said sections 259 to [F4261A]—
- “criminal proceedings” include [F5(other than in section 261A)] any hearing by the sheriff of an application made [F6by virtue of section 93(2)(a) or 94(2) (a) of the Children’s Hearings (Scotland) Act 2011 (asp 1) to determine whether a ground is established, in so far as the application relates to the commission of an offence by the child, or for a review of such a determination;]
- “document” includes, in addition to a document in writing—
- (a) any map, plan, graph or drawing;
  - (b) any photograph;
  - (c) any disc, tape, sound track or other device in which sounds or other data (not being visual images) are recorded so as to be capable (with or without the aid of some other equipment) of being reproduced therefrom; and
  - (d) any film, negative, tape, disc or other device in which one or more visual images are recorded so as to be capable (as aforesaid) of being reproduced therefrom;
- “film” includes a microfilm;
- “made” includes [F4(other than in section 261A)] allegedly made.
- (4) Nothing in the said sections 259 to [F4261A] shall prejudice the admissibility of a statement made by a person other than in the course of giving oral evidence in court which is admissible otherwise than by virtue of those sections.

#### Textual Amendments

- F2** Word in s. 262 heading substituted (6.6.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), [ss. 85\(3\)\(a\)](#), 206(1); S.S.I. 2011/178, art. 2, sch.
- F3** Word in s. 262(1)-(4) substituted (6.6.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), [ss. 85\(3\)\(b\)](#), 206(1); S.S.I. 2011/178, art. 2, sch.
- F4** Words in s. 262(3) inserted (6.6.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), [ss. 85\(3\)\(c\)\(ii\)](#), 206(1); S.S.I. 2011/178, art. 2, sch.
- F5** Words in s. 262(3) inserted (6.6.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), [ss. 85\(3\)\(c\)\(i\)](#), 206(1); S.S.I. 2011/178, art. 2, sch.
- F6** Words in s. 262(3) substituted (24.6.2013) by [The Childrens Hearings \(Scotland\) Act 2011 \(Modification of Primary Legislation\) Order 2013 \(S.S.I. 2013/211\)](#), art. 1, [sch. 1 para. 10\(7\)](#)

#### Modifications etc. (not altering text)

- C1** S. 262 applied (with modifications) (6.6.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), [ss. 54\(3\)](#), 206(1); S.S.I. 2011/178, art. 2, sch.

**Status:**

Point in time view as at 06/11/2019.

**Changes to legislation:**

Criminal Procedure (Scotland) Act 1995, Cross Heading: Witness statements is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.