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Changes to legislation: Criminal Justice (Scotland) Act 2016, CHAPTER 4 is up to date with all changes known to be in force on or before 01 September 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)



Criminal Justice (Scotland) Act 2016

2016 asp 1

PART 6 **S**

MISCELLANEOUS

CHAPTER 4 **S**

STATEMENTS AND PROCEDURE

VALID FROM 25/01/2018

Statements by accused

109 Statements by accused **S**

(1) After section 261 of the 1995 Act there is inserted—

“261ZA Statements by accused

- (1) Evidence of a statement to which this subsection applies is not inadmissible as evidence of any fact contained in the statement on account of the evidence's being hearsay.
- (2) Subsection (1) applies to a statement made by the accused in the course of the accused's being questioned (whether as a suspect or not) by a constable, or another official, investigating an offence.
- (3) Subsection (1) does not affect the issue of whether evidence of a statement made by one accused is admissible as evidence in relation to another accused.”

(2) The title of section 261 of the 1995 Act becomes “**Statements by co-accused**”.

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Use of technology

110 Live television links **S**

(1) After section 288G of the 1995 Act there is inserted—

“Use of live television link

288H Participation through live television link

- (1) Where the court so determines at any time before or at a specified hearing, a detained person is to participate in the hearing by means of a live television link.
- (2) The court—
 - (a) must give the parties in the case an opportunity to make representations before making a determination under subsection (1),
 - (b) may make such a determination only if it considers that to do so is not contrary to the interests of justice.
- (3) The court may require a detained person to participate by means of a live television link in any proceedings at a specified hearing or otherwise in the case for the sole purpose of considering whether to make a determination under subsection (1) with respect to a specified hearing.
- (4) Where a detained person participates in any specified hearing or other proceedings by means of a live television link—
 - (a) a place of detention is, for the purposes of the hearing or other proceedings, deemed to be part of the court-room, and
 - (b) accordingly, the hearing or other proceedings are deemed to take place in the presence of the detained person.
- (5) In this section—

“court-room” includes chambers,

“live television link” means live television link between a place of detention and the court-room in which any specified hearing or other proceedings are to be held or (as the case may be) any specified hearing or other proceedings are being held.

288I Evidence and personal appearance

- (1) No evidence as to a charge on any complaint or indictment may be led or presented at a specified hearing in respect of which there is a determination under section 288H(1).
- (2) The court—
 - (a) may, at any time before or at a specified hearing, revoke a determination under section 288H(1),
 - (b) must do so in relation to a detained person if it considers that it is in the interests of justice for the detained person to appear in person.

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- (3) The court may postpone a specified hearing to a later day if, on the day on which a specified hearing takes place or is due to take place—
 - (a) the court decides not to make a determination under section 288H(1) with respect to the hearing, or
 - (b) the court revokes such a determination under subsection (2).

288J Effect of postponement

- (1) Except where a postponement under section 288I(3) is while section 21(2) of the Criminal Justice (Scotland) Act 2016 applies to a detained person, the following do not count towards any time limit arising in the person's case if the postponement in the case is to the next day on which the court is sitting—
 - (a) that next day,
 - (b) any intervening Saturday, Sunday or court holiday.
- (2) Even while section 21(2) of the Criminal Justice (Scotland) Act 2016 applies to a detained person, that section does not prevent a postponement under section 288I(3) in the person's case.
- (3) In section 288I and this section, “postpone” includes adjourn.

288K Specified hearings

- (1) The Lord Justice General may by directions specify types of hearing at the High Court, sheriff court and JP court in which a detained person may participate in accordance with section 288H(1).
- (2) Directions under subsection (1) may specify types of hearing by reference to—
 - (a) the venues at which they take place,
 - (b) particular places of detention,
 - (c) categories of cases or proceedings to which they relate.
- (3) Directions under subsection (1) may—
 - (a) vary or revoke earlier such directions,
 - (b) make different provision for different purposes.
- (4) The validity of any proceedings is not affected by the participation of a detained person by means of a live television link in a hearing that is not a specified hearing.
- (5) In this section, “hearing” includes any diet or hearing in criminal proceedings which may be held in the presence of an accused, a convicted person or an appellant in the proceedings.

288L Defined terms

For the purpose of sections 288H to 288K—

“detained person” means person who is—

- (a) an accused, a convicted person or an appellant in the case to which a specified hearing relates, and

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(b) imprisoned or otherwise lawfully detained (whether or not in connection with an offence) at any place in Scotland,
 “place of detention” means place in which a detained person is imprisoned or detained,
 “specified hearing” means hearing of a type specified in directions having effect for the time being under section 288K.”.

(2) In addition—

- (a) in section 117 (presence of appellant or applicant at hearing) of the 1995 Act—
 - (i) subsection (6) is repealed,
 - (ii) in subsection (7), for the word “(6)” there is substituted “ (5) ”,
- (b) section 80 of the Criminal Justice (Scotland) Act 2003 is repealed.

Commencement Information

I1 S. 110(2)(a) in force at 17.1.2017 by S.S.I. 2016/426, art. 2, sch.

111 Electronic proceedings S

(1) In section 305 (Acts of Adjournal) of the 1995 Act, after subsection (1) there is inserted—

“(1A) Subsection (1) above extends to making provision by Act of Adjournal for something to be done in electronic form or by electronic means.”.

(2) These provisions of the 1995 Act are repealed—

- (a) in section 141—
 - (i) subsection (3A),
 - (ii) in subsection (5), the words “(including a legible version of an electronic communication)”,
 - (iii) subsection (5ZA),
 - (iv) in subsection (5A), paragraph (b) together with the word “or” immediately preceding it,
 - (v) subsections (6A), (7A) and (7B),
- (b) section 303B together with the italic heading immediately preceding it,
- (c) section 308A.

(3) In the Criminal Proceedings etc. (Reform) (Scotland) Act 2007, section 42 is repealed.

Commencement Information

I2 S. 111(1) in force at 17.1.2017 by S.S.I. 2016/426, art. 2, sch.

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