



# Victims and Witnesses (Scotland) Act 2014

## 2014 asp 1

### *Interviews*

#### **8 Certain offences: victim's right to specify gender of interviewer**

- (1) This section applies where an investigating officer intends to carry out a relevant interview with a person who is or appears to be the victim of an offence [<sup>F1</sup>or alleged offence] of a type mentioned in subsection (5).
- (2) Before the relevant interview takes place, the investigating officer must give the person who is to be interviewed the opportunity to specify the gender of the investigating officer who is to carry out the interview.
- (3) If the person who is to be interviewed specifies a gender under subsection (2), the relevant interview may be carried out only by an investigating officer of that gender.
- (4) The investigating officer need not comply with subsection (2) if—
  - (a) complying with it would be likely to prejudice a criminal investigation, or
  - (b) it would not be reasonably practicable to do so.
- (5) The types of offence are—
  - (a) an offence listed in any of paragraphs 36 to 59ZL of Schedule 3 to the Sexual Offences Act 2003,
  - (b) an offence under section 22 of the 2003 Act (traffic in prostitution etc.),
  - (c) an offence under section 4 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (trafficking people for exploitation),
  - [<sup>F2</sup>(ca) an offence of human trafficking (see section 1 of the Human Trafficking and Exploitation (Scotland) Act 2015),]
  - (d) an offence the commission of which involves domestic abuse,
  - (e) stalking.
- (6) Failure to comply with subsection (2) in relation to a particular relevant interview has no effect on any criminal proceedings to which the interview relates.
- (7) The Scottish Ministers may by order modify subsection (5).

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*Changes to legislation: There are currently no known outstanding effects for the Victims and Witnesses (Scotland) Act 2014, Section 8. (See end of Document for details)*

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(8) In this section—

“investigating officer” means—

- (a) a constable, or
- (b) a person of such other description as the Scottish Ministers may by order prescribe,

“relevant interview” means—

- (a) questioning of a person in the course of criminal proceedings which have been instituted in relation to another person, or
- (b) questioning of a person with a view to instituting criminal proceedings against another person.

(9) Any reference in this section (other than subsection (10)) to an investigating officer includes a reference to two or more investigating officers acting jointly.

(10) An order under subsection (7) or paragraph (b) of the definition of “investigating officer” in subsection (8) is subject to the negative procedure.

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#### **Textual Amendments**

- F1** Words in s. 8(1) inserted (23.12.2015) by [The Victims' Rights \(Scotland\) Regulations 2015 \(S.S.I. 2015/444\)](#), regs. 1(2), **12**
- F2** S. 8(5)(ca) inserted (31.5.2016) by [Human Trafficking and Exploitation \(Scotland\) Act 2015 \(asp 12\)](#), s. 45(2), **Sch. para. 6** (with s. 44); S.S.I. 2016/128, reg. 2, Sch.

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#### **Commencement Information**

- I1** S. 8 in force at 13.8.2014 by [S.S.I. 2014/210](#), art. 2, **Sch.**

**Changes to legislation:**

There are currently no known outstanding effects for the Victims and Witnesses (Scotland) Act 2014, Section 8.