
EXPLANATORY NOTE

(This note is not part of the Order)

This Commencement Order brings into force sections 11 to 17, section 18(1)(b) to (e) and (2) and sections 20 to 22 of the Vulnerable Witnesses (Scotland) Act 2004 (“the 2004 Act”) insofar as not already in force. It also brings into force sections 18(1)(a) and 19 of the 2004 Act, insofar as not already in force, for the purpose indicated in the Schedule to this Order.

In effect, the special measures provided for in the above sections of the 2004 Act (with the exception of taking evidence by a commissioner, in sections 18(1)(a) and 19) may now be used, where appropriate, in respect of child and other vulnerable witnesses in all civil proceedings as defined in section 11(5) of the 2004 Act (interpretation of this Part). This includes proceedings in any of the ordinary courts of law and any proceedings to which section 91 (procedural rules in relation to certain applications etc.) of the Children (Scotland) Act 1995 (“the 1995 Act”) applies.

The special measure of taking evidence by a commissioner may now be used, where appropriate, in respect of child and other vulnerable witnesses in all civil proceedings within the meaning of section 11(5) of the 2004 Act, other than those in relation to applications to the sheriff under sections 65(7), 65(9) and 85 of the 1995 Act to which section 68A of that Act applies (restrictions on evidence in certain cases involving sexual abuse).