



# Criminal Procedure (Scotland) Act 1995

## 1995 CHAPTER 46

### PART XII

#### EVIDENCE

*[<sup>F1</sup>Special measures for child witnesses and other vulnerable witnesses]*

#### **[<sup>F1</sup>271F The accused**

- (1) For the purposes of the application of subsection (1) of section 271 of this Act to the accused (where the accused is giving or is to give evidence at or for the purposes of [<sup>F2</sup>a hearing in relevant criminal proceedings]), subsection (2) of that section shall have effect as if—
- (a) for paragraph (c) there were substituted—
    - “(c) whether the accused is to be legally represented at [<sup>F3</sup>the hearing] and, if not, the accused’s entitlement to be so legally represented.”, and
  - (b) for paragraph (e) there were substituted—
    - “(e) any behaviour towards the accused on the part of—
      - (i) any co-accused or any person who is likely to be a co-accused in the proceedings,
      - (ii) any witness or any person who is likely to be a witness in the proceedings, or
      - (iii) members of the family or associates of any of the persons mentioned in sub-paragraphs (i) and (ii) above.”.
- (2) Where, if the accused were to give evidence at or for the purposes of [<sup>F4</sup>the hearing], he would be a child witness—
- (a) section 271A of this Act shall apply in relation to the accused subject to the following modifications—

---

*Status: Point in time view as at 01/10/2011. This version of this provision has been superseded.*

*Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Criminal Procedure (Scotland) Act 1995. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

---

- (i) references to a child witness (except in the phrase “child witness notice”) shall be read as if they were references to the accused,
- (ii) references to the party citing or intending to cite a child witness shall be read as if they were references to the accused, and
- (iii) subsection (6) shall have effect as if for paragraph (a) there were substituted—
  - “(a) it appears to the court that the accused, if he were to give evidence at or for the purposes of [F5a hearing in relevant criminal proceedings], would be a child witness.”, and
- (b) section 271B of this Act shall apply in relation to the accused as if—
  - (i) for subsection (1) there were substituted—
    - “(1) This section applies where the accused—
      - (a) if he were to give evidence at or for the purposes of [F6a hearing in relevant criminal proceedings] would be a child witness, and
      - (b) is under the age of 12 on the date of commencement of the proceedings.”, and
    - (ii) in subsection (3), references to the child witness were references to the accused.
- (3) Subsection (4) below applies where the accused—
  - (a) considers that, if he were to give evidence at or for the purposes of [F7a hearing in relevant criminal proceedings], he would be a vulnerable witness other than a child witness, and
  - (b) has not decided to give evidence without the benefit of any special measures.
- (4) Where this subsection applies, subsections (2) to (11) of section 271C of this Act shall apply in relation to the accused subject to the following modifications—
  - (a) references to the witness shall be read as if they were references to the accused,
  - (b) references to the party citing or intending to cite the witness shall be read as if they were references to the accused, and
  - (c) in subsection (8)(b), the reference to subsection (2)(a) to (f) of section 271 of this Act shall be read as if it were a reference to that subsection as modified by subsection (1) above.
- (5) Section 271D of this Act shall apply in any case where it appears to the court that the accused, if he were to give evidence at or for the purposes of [F8the hearing], would be a vulnerable witness as it applies in the case referred to in subsection (1) of that section but subject to the following modifications—
  - (a) references to the witness shall be read as if they were references to the accused,
  - (b) references to the party citing or intending to cite the witness shall be read as if they were references to the accused.
- (6) Where the witness within the meaning of section 271E of this Act is the accused, that section shall have effect in relation to the witness as if—
  - (a) in subsection (1), paragraph (a) were omitted, and
  - (b) in subsection (2), the words “The party or, as the case may be,” were omitted.

*Status: Point in time view as at 01/10/2011. This version of this provision has been superseded.*

*Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Criminal Procedure (Scotland) Act 1995. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

- (7) Section 271M of this Act shall have effect, where the vulnerable witness is the accused, as if the reference in subsection (2) to the party citing the vulnerable witness were a reference to the accused.
- (8) The following provisions of this Act shall not apply in relation to a vulnerable witness who is the accused—
- (a) section 271H(1)(c),
  - (b) section 271I(3).]

#### Textual Amendments

- F1** Ss. 271-271M and preceding cross-heading substituted for s. 271 (1.4.2005, 30.11.2005, 1.4.2006, 1.4.2007 and 2.7.2007 for certain purposes, otherwise 1.4.2008) by [Vulnerable Witnesses \(Scotland\) Act 2004 \(asp 3\)](#), **ss. 1, 25**; S.S.I. 2005/168, **art. 2**, Sch. (with savings in art. 4); S.S.I. 2005/590, **art. 2**, Sch. (with art. 4); S.S.I. 2006/59, **art. 2**, Sch. (with art. 4(1)); S.S.I. 2007/101, **art. 2**, Sch. (with art. 4); S.S.I. 2007/329, **art. 2**, Sch. (with art. 4); S.S.I. 2008/57, **art. 2** (with art. 3)
- F2** Words in s. 271F(1) substituted (28.3.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), **ss. 87(7)(a)(i)**, 206(1); S.S.I. 2011/178, art. 2, sch.
- F3** Words in s. 271F(1)(a) substituted (28.3.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), **ss. 87(7)(a)(ii)**, 206(1); S.S.I. 2011/178, art. 2, sch.
- F4** Words in s. 271F(2) substituted (28.3.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), **ss. 87(7)(b)(i)**, 206(1); S.S.I. 2011/178, art. 2, sch.
- F5** Words in s. 271F(2) substituted (28.3.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), **ss. 87(7)(b)(ii)**, 206(1); S.S.I. 2011/178, art. 2, sch.
- F6** Words in s. 271F(2) substituted (28.3.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), **ss. 87(7)(b)(iii)**, 206(1); S.S.I. 2011/178, art. 2, sch.
- F7** Words in s. 271F(3) substituted (28.3.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), **ss. 87(7)(c)**, 206(1); S.S.I. 2011/178, art. 2, sch.
- F8** Words in s. 271F(5) substituted (28.3.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), **ss. 87(7)(d)**, 206(1); S.S.I. 2011/178, art. 2, sch.

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

- C1** Ss. 271-271M applied by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#), s. 15A (as inserted (1.4.2005, 30.11.2005, 1.4.2006, 1.4.2007 and 2.7.2007 for certain purposes and otherwise 1.4.2008) by [Vulnerable Witnesses \(Scotland\) Act 2004 \(asp 3\)](#), **ss. 3, 25**; S.S.I. 2005/168, **art. 2**, Sch. (with savings in art. 4); S.S.I. 2005/590, **art. 2**, Sch. (with art. 4); S.S.I. 2006/59, **art. 2**, Sch. (with art. 4); S.S.I. 2007/101, **art. 2**, Sch. (with art. 4); S.S.I. 2007/329, **art. 2**, Sch. (with art. 4)); S.S.I. 2008/57, **art. 2** (with art. 3)

**Status:**

Point in time view as at 01/10/2011. This version of this provision has been superseded.

**Changes to legislation:**

There are outstanding changes not yet made by the legislation.gov.uk editorial team to Criminal Procedure (Scotland) Act 1995. Any changes that have already been made by the team appear in the content and are referenced with annotations.