



Criminal Procedure (Scotland) Act 1995

1995 CHAPTER 46

PART XII

EVIDENCE

[^{F1} Witness anonymity orders

[^{F1}271P Applications

- (1) An application for a witness anonymity order to be made in relation to a witness in criminal proceedings may be made to the court by the prosecutor or the accused.
- (2) Where an application is made by the prosecutor, the prosecutor—
 - (a) must (unless the court directs otherwise) inform the court of the identity of the witness, but
 - (b) is not required to disclose in connection with the application—
 - (i) the identity of the witness, or
 - (ii) any information that might enable the witness to be identified, to any other party to the proceedings (or to the legal representatives of any other party to the proceedings).
- (3) Where an application is made by the accused, the accused—
 - (a) must inform the court and the prosecutor of the identity of the witness, but
 - (b) if there is more than one accused, is not required to disclose in connection with the application—
 - (i) the identity of the witness, or
 - (ii) any information that might enable the witness to be identified, to any other accused (or to the legal representatives of any other accused).
- (4) Subsections (5) and (6) apply where the prosecutor or the accused proposes to make an application under this section in respect of a witness.

Status: Point in time view as at 01/07/2022.

Changes to legislation: Criminal Procedure (Scotland) Act 1995, Section 271P is up to date with all changes known to be in force on or before 15 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)

- (5) Any relevant information which is disclosed by or on behalf of that party before the determination of the application must be disclosed in such a way as to prevent—
- (a) the identity of the witness, or
 - (b) any information that might enable the witness to be identified,
- from being disclosed except as required by subsection (2)(a) or (3)(a).
- (6) Despite any provision in this Act to the contrary, any relevant list, application or notice lodged, made or given by that party before the determination of the application must not—
- (a) disclose the identity of the witness, or
 - (b) contain any other information that might enable the witness to be identified,
- but the list, application or notice must, instead, refer to the witness by a pseudonym.
- (7) “Relevant information” means any document or other material which falls to be disclosed, or is sought to be relied on, by or on behalf of the party concerned in connection with the proceedings or proceedings preliminary to them.
- (8) “Relevant list, application or notice” means—
- (a) a list of witnesses,
 - (b) a list of productions,
 - (c) a notice under section 67(5) or 78(4) relating to the witness,
 - (d) a motion or application under section 268, 269 or 270 relating to the witness,
 - (e) any other motion, application or notice relating to the witness.
- (9) The court must give every party to the proceedings the opportunity to be heard on an application under this section.
- (10) Subsection (9) does not prevent the court from hearing one or more of the parties to the proceedings in the absence of an accused and the accused's legal representatives, if it appears to the court to be appropriate to do so in the circumstances of the case.
- (11) Nothing in this section is to be taken as restricting any power to make rules of court.]

Textual Amendments

F1 Ss. 271N-271Z inserted (28.3.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), [ss. 90\(1\)](#), 206(1); S.S.I. 2011/178, art. 2, sch.

Modifications etc. (not altering text)

C1 Ss. 271N-271Z applied (28.3.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), [ss. 90\(3\)\(4\)](#), 206(1); S.S.I. 2011/178, art. 2, sch.

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