

Vulnerable Witnesses (Criminal Evidence) (Scotland) Bill

Groupings of Amendments for Stage 2

This document provides procedural information which will assist in preparing for and following proceedings on the above Bill. The information provided is as follows:

- the list of groupings (that is, the order in which amendments will be debated). Any procedural points relevant to each group are noted;
- the text of amendments to be debated at Stage 2, set out in the order in which they will be debated. **THIS LIST DOES NOT REPLACE THE MARSHALLED LIST, WHICH SETS OUT THE AMENDMENTS IN THE ORDER IN WHICH THEY WILL BE DISPOSED OF.**

Groupings of amendments

Child witnesses in certain solemn cases: extension of provisions to domestic abuse offences

1

Standard special measures: simplified procedure

2, 5

Taking of evidence by a commissioner: cross-examination

3

Taking of evidence by a commissioner: protection after conclusion of proceedings

4

Taking of evidence by a commissioner: questioning training

6

Taking of evidence by a commissioner: multiple commissions

7, 8

Review of operation of Act and processes for taking evidence from child witnesses in criminal proceedings

9, 10

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Amendments in debating order

Child witnesses in certain solemn cases: extension of provisions to domestic abuse offences

Humza Yousaf

- 1 In section 1, page 1, line 22, at end insert—
- <(fa) an offence under section 1(1) of the Domestic Abuse (Scotland) Act 2018,
 - (fb) an offence that is aggravated as described in section 1(1)(a) of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016,
 - (fc) an offence that would have fallen within paragraph (fb) if section 1 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016 had been in force when the offence was allegedly committed.>

Standard special measures: simplified procedure

Humza Yousaf

- 2 In section 1, page 5, line 2, leave out <and> and insert—
- <(aa) subsection (4A) were omitted, and>

Humza Yousaf

- 5 In section 9, page 12, line 1, at end insert—
- <() In section 271F(2), after paragraph (a) insert—
 - “(aa) section 271AA applies in relation to the accused with the following modifications—
 - (i) in subsection (1)(a), the reference to a child witness or a deemed vulnerable witness is to be read as if it were a reference to the accused,
 - (ii) in subsections (1) to (5), references to the party citing or intending to cite the witness are to be read as if they were references to the accused,
 - (iii) in subsections (1)(b), (2)(a) and (4), references to the witness are to be read as if they were references to the accused,
 - (iv) subsection (2) has effect as if for paragraphs (b) and (c) there were substituted—
 - “(b) that the notice is lodged by the accused and that the accused is a child witness,
 - (c) the accused’s age, and”, and”.>

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Taking of evidence by a commissioner: cross-examination

Humza Yousaf

3 In section 1, page 5, line 10, at end insert—

<(4CA)An order made by the court under this section must have the effect of authorising the use of the special measure of taking of evidence by a commissioner in accordance with section 271I if—

- (a) that is requested by any party to the proceedings, and
- (b) the earlier order authorises only the special measure of giving evidence in chief in the form of a prior statement in accordance with section 271M.

(4CB)However, an order made by the court under this section need not have the effect described in subsection (4CA) if—

- (a) the hearing has already commenced when the court commences its review, or
- (b) the court is satisfied that an exception is justified under section 271BZA(7) or (8).>

Taking of evidence by a commissioner: protection after conclusion of proceedings

Liam Kerr

4 In section 5, page 8, line 24, after <steps> insert <(including arrangements for the protection of the vulnerable witness after the conclusion of proceedings)>

Taking of evidence by a commissioner: questioning training

Margaret Mitchell

6 In section 5, page 9, line 18, at end insert—

<() In section 271I, after subsection (8), insert—

“(9) For the purposes of taking of evidence by a commissioner, parties to the proceedings must comply with such training requirements in relation to the questioning of vulnerable witnesses as may be prescribed by act of adjournal.”.>

Taking of evidence by a commissioner: multiple commissions

Margaret Mitchell

7 In section 5, page 9, line 29, at end insert—

<() In section 271D, after subsection (4), insert—

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“(4A) For the avoidance of doubt, where the current arrangements for taking the witness’s evidence include the use of the special measure under section 271I, an order under subsection (2)(a) can vary the original order, subject to subsection (4B), by adding a subsequent use of that special measure if the court considers that is the most appropriate measure for the purpose of continuing to take that witness’s evidence.

(4B) The court may only vary an order authorising a subsequent use of the special measure under section 271I if it considers there to be a compelling reason for doing so.”>

Margaret Mitchell

8 After section 5, insert—

<Review of impact of Act on taking evidence by commissioner

- (1) The Scottish Ministers must, not later than the end of the period of 2 years beginning with the day of Royal Assent, commence a review of the impact of this Act on the special measure of taking evidence by a commissioner in relation to child witnesses.
- (2) Not later than 1 year after the day on which the review under subsection (1) is commenced, the Scottish Ministers must lay a report on the conclusions of the review before the Scottish Parliament.
- (3) A report under subsection (2)—
 - (a) must consider—
 - (i) whether this Act has resulted in the taking of evidence from child witnesses by commissioner on multiple occasions in relation to the same proceedings,
 - (ii) what the impact has been on child witnesses if they have had to give evidence to a commissioner on multiple occasions in relation to the same proceedings, and
 - (b) may consider such other matters as the Scottish Ministers consider appropriate.
- (4) For the purposes of preparing a report under subsection (2), the Scottish Ministers must consult—
 - (a) the Crown Office and Procurator Fiscal Service,
 - (b) the Police Service of Scotland,
 - (c) the Scottish Courts and Tribunal Service,
 - (d) vulnerable witnesses, and
 - (e) such other bodies which provide support to vulnerable witnesses as the Scottish Ministers consider appropriate.
- (5) The Scottish Ministers must, as soon as reasonably practicable, publish the report in such a manner as they consider appropriate.>

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Review of operation of Act and processes for taking evidence from child witnesses in criminal proceedings

Liam Kerr

9 After section 8, insert—

<Review of operation of Act

- (1) The Scottish Ministers must, not later than the end of the period of 3 years beginning with the day of Royal Assent, review the operation of this Act.
- (2) Not later than 1 year after the day on which the review under subsection (1) is commenced, the Scottish Ministers must lay a report on the conclusions of the review before the Scottish Parliament.
- (3) A report under subsection (2) must include a statement from the Scottish Ministers setting out—
 - (a) the impact of this Act on support and information provided to vulnerable witnesses, and
 - (b) whether the Scottish Ministers intend to bring forward any proposals in relation to the support and information provided to vulnerable witnesses in consequence of the findings of that report.
- (4) For the purposes of preparing a report under subsection (2), the Scottish Ministers must consult—
 - (a) the Crown Office and Procurator Fiscal Service,
 - (b) the Police Service of Scotland,
 - (c) the Scottish Courts and Tribunal Service,
 - (d) vulnerable witnesses, and
 - (e) such bodies which provide support to vulnerable witnesses as the Scottish Ministers consider appropriate.
- (5) The Scottish Ministers must, as soon as reasonably practicable, publish the report in such a manner as they consider appropriate.>

Margaret Mitchell

10 After section 8, insert—

<Review of process for taking evidence from child witnesses in criminal proceedings

- (1) The Scottish Ministers must, not later than the end of the period of 2 years beginning with the day of Royal Assent, commence a review of the process for taking evidence from child witnesses in criminal proceedings.
- (2) Not later than 1 year after the day on which the review under subsection (1) is commenced, the Scottish Ministers must lay a report on the conclusions of the review before the Scottish Parliament.
- (3) A report under subsection (2)—
 - (a) must consider what progress has been made toward taking evidence from child witnesses in criminal proceedings—
 - (i) in accommodation other than court buildings,

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- (ii) in accommodation that provides such other support to child witnesses as is considered appropriate, and
 - (b) may consider such other matters as the Scottish Ministers consider appropriate.
- (4) For the purposes of preparing a report under subsection (2), the Scottish Ministers must consult—
 - (a) the Crown Office and Procurator Fiscal Service,
 - (b) the Police Service of Scotland,
 - (c) the Scottish Courts and Tribunal Service,
 - (d) vulnerable witnesses, and
 - (e) such other bodies which provide support to vulnerable witnesses as the Scottish Ministers consider appropriate.
- (5) The Scottish Ministers must, as soon as reasonably practicable, publish the report in such a manner as they consider appropriate.>

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