



Criminal Procedure (Scotland) Act 1995

1995 CHAPTER 46

PART XIII

MISCELLANEOUS

Trials involving vulnerable witnesses

288F Power to prohibit personal conduct of defence in other cases involving vulnerable witnesses

- (1) This section applies in the case of proceedings in respect of any offence, other than proceedings—
- (a) in the [^{F1}JP court],
 - (b) in respect of a sexual offence to which section 288C of this Act applies, or
 - [^{F2}(ba) in respect of an offence to which section 288DC of this Act applies,]
 - (c) to which section 288E of this Act applies,
- where a vulnerable witness is to give evidence at, or for the purposes of, [^{F3}any hearing in the course of the proceedings].
- (2) If satisfied that it is in the interests of the vulnerable witness to do so, the court may—
- (a) on the application of the prosecutor, or
 - (b) of its own motion,
- make an order prohibiting the accused from conducting his [^{F4}case in person at any hearing at, or for the purposes of, which the vulnerable witness is to give evidence.]
- (3) However, the court shall not make an order under subsection (2) above if it considers that—
- (a) the order would give rise to a significant risk of prejudice to the fairness of the [^{F5}hearing] or otherwise to the interests of justice, and
 - (b) that risk significantly outweighs any risk of prejudice to the interests of the vulnerable witness if the order is not made.

Changes to legislation: Criminal Procedure (Scotland) Act 1995, Section 288F is up to date with all changes known to be in force on or before 10 May 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) View outstanding changes

(4) The court may make an order under subsection (2) above [^{F6}in relation to a hearing after, as well as before, the hearing has commenced.]

^{F7}(4A)

(5) Section 288D of this Act applies in the case of proceedings in respect of which an order is made under this section as it applies in the case of proceedings in respect of a sexual offence to which section 288C of this Act applies [^{F8} and as if references to a relevant hearing were references to any hearing in respect of which an order is made under this section].

^{F9}(6)

Textual Amendments

- F1** Words in s. 288F(1)(a) substituted (10.3.2008, 2.6.2008, 8.12.2008, 23.2.2009 and 14.12.2009 for certain purposes, otherwise 22.2.2010) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007](#) (asp 6), ss. 80, 84, **Sch. para. 26(r)**; S.S.I. 2008/42, **art. 3**, Sch.; S.S.I. 2008/192, **art. 3**, Sch.; S.S.I. 2008/329, **art. 3**, Sch.; S.S.I. 2008/362, **art. 3**, Sch.; S.S.I. 2009/432, **art. 3**, Schs. 1, 2
- F2** S. 288F(1)(ba) inserted (1.4.2019) by [Domestic Abuse \(Scotland\) Act 2018](#) (asp 5), s. 15(2), **sch. para. 4(16)**; S.S.I. 2018/387, reg. 2 (with reg. 7)
- F3** Words in s. 288F(1) substituted (28.3.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010](#) (asp 13), **ss. 69(5)(a)**, 206(1); S.S.I. 2011/178, art. 2, sch.
- F4** Words in s. 288F(2) substituted (28.3.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010](#) (asp 13), **ss. 69(5)(b)**, 206(1); S.S.I. 2011/178, art. 2, sch.
- F5** Word in s. 288F(3)(a) substituted (28.3.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010](#) (asp 13), **ss. 69(5)(c)**, 206(1); S.S.I. 2011/178, art. 2, sch.
- F6** Words in s. 288F(4) substituted (28.3.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010](#) (asp 13), **ss. 69(5)(d)**, 206(1); S.S.I. 2011/178, art. 2, sch.
- F7** S. 288F(4A) repealed (28.3.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010](#) (asp 13), **ss. 69(5)(e)**, 206(1); S.S.I. 2011/178, art. 2, sch.
- F8** Words in s. 288F(5) inserted (28.3.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010](#) (asp 13), **ss. 69(5)(f)**, 206(1); S.S.I. 2011/178, art. 2, sch.
- F9** S. 288F(6) repealed (28.3.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010](#) (asp 13), **ss. 69(5)(g)**, 206(1); S.S.I. 2011/178, art. 2, sch.

Modifications etc. (not altering text)

- C1** S. 288F applied (with modifications) (23.12.2015) by [The Justice of the Peace Courts \(Special Measures\) \(Scotland\) Order 2015](#) (S.S.I. 2015/447), arts. 1(2), **5** (with art. 1(3))

Changes to legislation:

Criminal Procedure (Scotland) Act 1995, Section 288F is up to date with all changes known to be in force on or before 10 May 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.

[View outstanding changes](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 5A inserted by [2010 asp 13 Sch. 7 para. 26](#)
- s. 13(1B)(1C) inserted by [2006 asp 10 s. 82\(2\)](#)
- s. 13(2)(aa) inserted by [2006 asp 10 s. 82\(3\)\(b\)](#)
- s. 13(3A) inserted by [2006 asp 10 s. 82\(4\)](#)
- s. 13(5)(ba) inserted by [2006 asp 10 s. 82\(5\)\(a\)](#)
- s. 13(6)(a)(iii) and word inserted by [2006 asp 10 s. 82\(6\)\(b\)](#)
- s. 13(8) inserted by [2006 asp 10 s. 82\(7\)](#)
- s. 22(5A) inserted by [2007 asp 6 s. 7\(2\)\(g\)](#)
- s. 22A(1A) inserted by [2023 asp 4 s. 1\(2\)](#)
- s. 23B(1)(1A) substituted for s. 23B(1) by [2023 asp 4 s. 2\(2\)\(a\)](#)
- s. 23B(6A) inserted by [2023 asp 4 s. 1\(3\)\(c\)](#)
- s. 23B(8)-(10) inserted by [2023 asp 4 s. 2\(2\)\(c\)](#)
- s. 23C(1A) inserted by [2023 asp 4 s. 2\(3\)\(b\)](#)
- s. 23C(3) inserted by [2023 asp 4 s. 2\(3\)\(c\)](#)
- s. 24(2C) inserted by [2023 asp 4 s. 4\(4\)](#)
- s. 24(2AA) inserted by [2023 asp 4 s. 4\(2\)](#)
- s. 73A inserted by [2004 asp 3 s. 2\(3\)](#)
- s. 167(7D)(7E) inserted by [2007 asp 17 sch. 4 para. 1\(3\)](#)
- s. 167(7D) words substituted by [2010 asp 13 Sch. 3 para. 16\(2\)](#)
- s. 167(7E) words substituted by [2010 asp 13 Sch. 3 para. 16\(3\)](#)
- s. 194ZA repealed by [2014 asp 18 sch. 3 para. 25](#)
- s. 200A inserted by [2016 asp 1 s. 85](#)
- s. 205A added by [1997 c. 48 s. 1\(1\)](#) (This amendment not applied to [legislation.gov.uk. 1997 c. 48, s. 1 repealed \(27.6.2003\)](#) without ever being in force by [2003 asp 7, s. 19\(3\)](#); [S.S.I. 2003/288, art. 2, Sch.](#))
- s. 210ZA inserted by [2023 asp 4 s. 5](#)
- s. 249(4A)-(4D) inserted by [2014 asp 1 s. 24](#)
- s. 271D(4A) inserted by [2019 asp 8 s. 6\(4\)](#)
- s. 271F(2)(aa) inserted by [2019 asp 8 s. 10\(4\)](#)
- s. 271AA inserted by [2019 asp 8 s. 6\(2\)](#)
- s. 271BZD inserted by [2019 asp 8 s. 3\(2\)](#)
- s. 288AB288AC inserted by [2024 asp 1 s. 32\(3\)](#)
- Sch. 5A added by [1997 c. 48 s. 1\(2\)](#) (This amendment not applied to [legislation.gov.uk. 1997 c. 48, s. 1 repealed \(27.6.2003\)](#) without ever being in force by [2003 asp 7, s. 19\(3\)](#); [S.S.I. 2003/288, art. 2, Sch.](#))