

CRIMINAL PROCEEDINGS ETC. (REFORM) (SCOTLAND) ACT 2007

EXPLANATORY NOTES

INTRODUCTION

Part 5 – Inspection of the Crown Office and Procurator Fiscal Service

Section 78: Appointment of Inspector

427. This section provides for the appointment of Her Majesty’s Inspector of Prosecution in Scotland by the Lord Advocate and makes provision for the length of appointment and associated matters. Subsection (5) allows the Inspector to authorise any person to exercise any functions of the Inspector.

Section 79: The Inspector’s functions

428. This section provides for the functions of the Inspector.

429. Subsection (1) provides that the task of the Inspector is to secure the inspection of the Crown Office and Procurator Fiscal Service (the “Service”). Subsection (2) makes provision for a report to be provided by the Inspector to the Lord Advocate on any particular matter referred to the Inspector by the Lord Advocate. These subsections place the current administrative arrangements under statutory authority. In practice the Inspector and his or her staff will be civil servants.

430. Subsections (3) and (4) provide authority for the Inspector to require information of any person directly involved in the operation of the Service of a general or specific character including in electronic or documentary form. Subsection (5) places a duty on the Inspector to provide the Scottish Ministers with details of any expenditure incurred in the exercise of the Inspector’s functions.

431. Subsection (6) requires the Inspector to submit an annual report to the Lord Advocate. Subsection (7) allows the Lord Advocate to comment on the draft annual report before the annual report is submitted under subsection (6). Subsection (8) provides for the annual report to be laid before the Scottish Parliament.

432. Subsection (9) ensures the independence of the Inspector.