

*These notes relate to the Bail, Judicial Appointments etc. (Scotland) Act 2000 (asp 9) which received Royal Assent on 9 August 2000*

# **BAIL, JUDICIAL APPOINTMENTS ETC. (SCOTLAND) ACT 2000**

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## **EXPLANATORY NOTES**

### **THE ACT**

#### **Part 1 – Bail**

##### ***Section 1 (Consideration of bail on first appearance)***

6. **Section 1** inserts a new section 22A into the 1995 Act.
7. Section 22A(1) imposes a duty on the sheriff or judge of the district court, on an accused person's first appearance, to consider automatically the question of whether the accused should be given bail. At first appearance, the accused person or their legal representative will no longer require to make a bail application before the issue will be considered. This provision applies whether the person has been arrested by virtue of a “petition”, i.e. the offence is serious enough to merit solemn proceedings and trial on indictment before a jury, or charged on “complaint”, i.e. for a lesser offence which can be tried by a sheriff or judge of the district court alone.
8. Section 22A(2) gives the sheriff or judge the power to defer taking a bail decision on first appearance for up to 24 hours. A deferral may be necessary if insufficient evidence is available to allow an immediate decision to be taken. This is in line with the existing provisions in section 23 of the 1995 Act which allow a 24-hour continuation where a person is charged on complaint or where a person arrested on petition has already been committed. Prior to the committal of a person arrested on petition, the sheriff is not bound by any limit of time on his bail decision but, in practice, a 24-hour limit is usually applied. The existing provisions will apply to bail applications made after first appearance.
9. Section 22A(3) provides that if the bail decision is not taken within the period of 24 hours, the accused person must be liberated. This is in line with the existing position in section 23 of the 1995 Act in relation to bail applications.
10. Section 22A(4) requires the court to consider bail whether or not the accused is already in custody when he is brought before the sheriff or judge.