

*These notes relate to the Sexual Offences (Procedure and Evidence)
(Scotland) Act 2002 (asp 9) which received Royal Assent on 11 April 2002*

SEXUAL OFFENCES (PROCEDURE AND EVIDENCE) (SCOTLAND) ACT 2002

EXPLANATORY NOTES

THE ACT

3. The Act has two main purposes. These are—
 - To prevent the accused in a sexual offence case from personally cross-examining the complainer; and
 - To strengthen the existing provisions restricting the extent to which evidence can be led regarding the character and sexual history of the complainer.
4. The first purpose will be achieved by requiring the accused to be legally represented throughout his or her trial. Warnings and preliminary stages are built into the criminal justice process to ensure that the accused is made aware in good time of the need for legal representation and to encourage him or her to appoint a solicitor of his or her choice, who can then instruct counsel in the normal way if required. Where the accused does not do this then a solicitor will be appointed by the court.
5. The second purpose will be implemented by replacing the present sections 274 and 275 of the Criminal Procedure (Scotland) Act 1995 (“the 1995 Act”), which deal with sexual history evidence, with substitute sections containing new wording. In addition, where an accused does succeed in convincing the court that character or sexual history evidence should be introduced, there will be greater scope for the court to take into account any previous sexual offence convictions which he or she has, in order to ensure a balanced picture.