

*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

COMMENTARY ON THE SCHEDULE

Paragraph 11

60. Paragraph 11 inserts a new section 148A into the 1995 Act. This provides for an interim diet in all non-jury sexual offence cases to be held unless dispensed with by the court where the accused has a solicitor who applies to do so. The accused is required to attend. The diet is to be used to establish whether the accused has legal representation for the trial. Subsection (3) of the new section confers on the court the same power to adjourn the diet for a maximum of 48 hours as is provided for the High Court. Where the accused still makes no appointment, the court will proceed to appoint a solicitor under section 288D. Subsection (4) allows the interim diet to take place at the same time as any other preliminary hearing (known as an intermediate diet) fixed for the same case. Since intermediate diets are compulsory in most sheriff and district courts, it is expected that in practice the interim and intermediate diets can be held at the same time.
61. Subsections (7) and (8) of the new section impose a duty on a solicitor who withdraws from acting or is dismissed after the interim diet has taken place, or after it has been dispensed with, or an application to dispense with it has been made, to notify the court. This will enable the court to refuse an application to dispense with the interim diet, or to fix a fresh interim diet to deal with the issue of legal representation (section 148A(9)).