EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes amendments to the Criminal Proceedings etc. (Reform) (Scotland) Act 2007 ("the 2007 Act") which are ancillary to the provisions of the 2007 Act.

Article 2 of the Order supplements the provisions of the Criminal Procedure (Scotland) Act 1995 ("the 1995 Act") dealing with failure of the accused to appear at court. Section 102A of that Act (as inserted by section 32 of the 2007 Act) is amended to allow an arrest warrant to be granted both under new section 102A(2) and on petition (as referred to in section 34 of the 1995 Act) in respect of an offence under section 27(7) (failure to appear while on bail in a solemn case) of the 1995 Act. New section 102A of the 1995 Act is amended to put beyond any doubt that subsection (5) relates only to warrants granted before conviction.

Article 3 of the Order supplements section 7 of the 2007 Act which makes provision in relation to liberation of persons by the police on undertaking to appear. Section 7(2) of the 2007 Act amends section 22 of the 1995 Act. New section 22(1C) and (1D)(a) of the 1995 Act allow a person to be liberated on undertaking but subject to the standard conditions of bail found in section 24(5)(b), (c) and (ca) of the 1995 Act. New section 22(1D)(a) of the 1995 Act is amended to put beyond any doubt that references to bail in those standard conditions are to be read, in this context, as references to the undertaking which the person has given. Specific reference is made to offending while on bail in the standard condition found in section 24(5)(b) of the 1995 Act. This additional provision puts beyond any doubt that, in the context of liberation on undertaking, the condition is that the person does not commit an offence while they are on that undertaking.