

*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 5

45. A first diet is a preliminary hearing in the sheriff court in a case which is to go to jury trial in that court. These diets are already compulsory in all cases. They are dealt with in section 71 of the 1995 Act.
46. Paragraph 5 amends section 71 to provide for the first diet to be used to establish whether the accused has legal representation for the trial. It inserts a new section 71(5A), which provides that a first diet may not take place in the absence of the accused in a sexual offence case. It also inserts a new section 71(8A), which restricts the court's power to adjourn a first diet to 48 hours where the adjournment is granted purely to give the accused a final chance to appoint his or her own solicitor.