

*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 10

58. Section 146(3) of the 1995 Act provides that, where a non-jury case is adjourned for trial, the prosecutor shall furnish the accused with a copy of the complaint, if he or she does not already have one. Paragraph 10 inserts a new subsection (3A), whereby the complaint requires to be accompanied by a notice containing a written warning in similar terms to that included in, or contained in the notice accompanying, any citation.
59. Paragraphs 2,3,4,8,9 and 10 of the schedule contain provision whereby failure to give any of the oral or written warnings specified in those paragraphs to the accused about the need for legal representation does not invalidate the proceedings against him or her. These warnings are to be supplied in the interests of the accused. However, given the number of them required to be communicated at different stages of the process and the advice about the need for representation which would be given to the accused by any competent solicitor, an entire prosecution is not to fail simply because a warning has not been provided.