
Changes to legislation: *There are currently no known outstanding effects for the Sexual Offences (Procedure and Evidence) (Scotland) Act 2002, Paragraph 7. (See end of Document for details)*

SCHEDULE
NOTICE TO ACCUSED ABOUT EFFECT OF SECTIONS 288C AND 288D OF 1995
ACT AND SPECIAL PRE-TRIAL PROCEDURES: AMENDMENT OF 1995 ACT

Pre-trial High Court diet: inquiry about legal representation of accused in cases of sexual offences

7 After section 72 there is inserted—

“72A Pre-trial diet: inquiry about legal representation of accused in cases of sexual offences

- (1) Where a case to be tried in the High Court is in respect of a sexual offence to which section 288C of this Act applies, the court shall order that, before the trial diet, there shall be a diet under this section and ordain the accused then to attend.
- (2) At a diet under this section, the court shall ascertain whether or not the accused has engaged a solicitor for the purposes of his defence at the trial.
- (3) Where, following inquiries for the purposes of subsection (2) above, it appears to the court that the accused has not engaged a solicitor for the purposes of his defence at his trial, it may adjourn the diet under this section for a period of not more than 48 hours and ordain the accused then to attend.
- (4) A diet under this section shall be not less than 15 clear days after the service of the indictment and not less than 10 clear days before the trial diet.
- (5) A diet under this section may be conjoined with a preliminary diet.
- (6) A court may, at a diet under this section, postpone the trial diet.
- (7) The court may dispense with a diet under this section previously ordered, but only if a solicitor engaged by the accused for the purposes of the defence of the accused at the trial has, in writing—
 - (a) confirmed his engagement for that purpose; and
 - (b) requested that the diet be dispensed with.
- (8) Where—
 - (a) a solicitor has requested, under subsection (7) above, that a diet under this section be dispensed with; and
 - (b) before that diet has been held or dispensed with, the solicitor—
 - (i) is dismissed by the accused; or
 - (ii) withdraws,the solicitor shall forthwith inform the court in writing of those facts.
- (9) It is the duty of a solicitor who—
 - (a) was engaged for the purposes of the defence of the accused at the trial—
 - (i) at the time of a diet under this section; or
 - (ii) in the case of a diet which, under subsection (7) above, is dispensed with, at the time when it was so dispensed with; and
 - (b) after that time but before the trial diet—

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- (i) is dismissed by the accused; or
- (ii) withdraws,

forthwith to inform the court in writing of those facts.

(10) On being so informed, the court shall order a further diet under this section.”.

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