

# **CRIMINAL JUSTICE (SCOTLAND) ACT 2003**

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## **EXPLANATORY NOTES**

### **THE ACT THE ACT IS IN 12 PARTS.**

#### **Part 8 – Evidential, Jurisdictional and Procedural Matters**

##### ***Section 64 – Review hearing of drug treatment and testing order***

337. **Section 64** amends section 234F of the Criminal Procedure (Scotland) Act 1995 to provide that a review hearing of a drug treatment and testing order can take place in the absence of the procurator fiscal.
338. A drug treatment and testing order is an order made under section 234B of the Criminal Procedure Scotland Act 1995 (as inserted by section 89 of the Crime and Disorder Act 1998). Section 234F of Criminal Procedure (Scotland) Act 1995 provides for the periodic review of this order.
339. Though section 234F does not specify that the procurator fiscal is required to be present at the review hearing of a drug treatment and testing order, in practice the courts have shown a reluctance to deal with the review in the absence of the procurator fiscal. However, in order to clarify the law section 53 provides that a review hearing can be held whether or not the procurator fiscal is present.