

# **CRIMINAL PROCEDURE (AMENDMENT) (SCOTLAND) ACT 2004**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### **Part 1 - Proceedings in the High Court**

##### ***Section 2 - Written record of state of preparation in certain cases***

33. **Section 2** inserts a new section 72E into the 1995 Act which makes provision for the joint preparation by prosecution and defence of a written record of the state of preparation of their cases. Subsection (1) applies the requirement to lodge the written record only to proceedings in the High Court where the solicitor for the accused has notified the prosecutor that he is acting for the accused at the preliminary hearing. No written record can be prepared unless the accused has a legal representative who can discuss the case with the prosecutor before the preliminary hearing.
34. Subsection (2) provides that the prosecutor and the accused's legal representative shall communicate with each other with a view to preparing and lodging jointly not less than 2 days before the preliminary hearing a written record of their state of preparation with respect to their cases and then lodge such written record. The court has discretion under subsection (3) to allow a written record to be lodged late. Under subsection (4), the form of the record, the information to be covered and the manner of lodging is to be prescribed by Act of Adjournal; and subsection (5) makes clear that the parties can also add any further information they consider to be appropriate.
35. Subsection (6) defines legal representative for the accused as his solicitor or counsel (including a solicitor advocate) or both the solicitor and counsel.