

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

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### **Part 2 - Solemn Proceedings Generally**

##### *Section 15 - Alteration of diets*

134. **Section 15** of the Act introduces a new section 75A into the 1995 Act which provides for adjournment and alteration of diets.
135. Subsection (2) provides that any diet may be adjourned. Subsection (3) provides that in the case of a trial diet the diet may be adjourned only if the indictment is not brought to trial at the diet. It goes on to provide that if any diet is adjourned where, following enquiries as to whether the accused has engaged a solicitor for the purposes of the conduct of his defence at the preliminary hearing or at the trial, it appears to the court that he has not done so, the adjournment shall be for a period of not more than 48 hours.
136. Subsection (4) provides that a trial diet in the High Court may be adjourned to a diet to be held at a sitting of the court in another place.
137. Subsections (5) to (7) provide that any party may apply to the court at any time before commencement of a diet to accelerate or postpone the diet. The application will be determined after hearing parties but where parties apply jointly the court may proceed to fix a new date without a hearing.
138. Subsection (8) requires the accused to attend any hearing in relation to the acceleration or postponement of the diet unless the judge permits the hearing to proceed in his absence.
139. Subsection (9) makes clear that, in setting a new trial diet, the judge must have regard to the state of preparation of the parties. It also gives the court power to appoint an additional pre-trial diet where it considers that there are any preliminary pleas, preliminary issues or other matters that could with advantage be disposed of, before the trial.
140. Subsection (10) provides that any diet fixed under subsection (5)(b) may be fixed notwithstanding that the holding of the diet on that date would result in any minimum or maximum period within which the diet is to be held or to commence not being complied with.