

# **ADULT SUPPORT AND PROTECTION (SCOTLAND) ACT 2007**

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## **EXPLANATORY NOTES**

### **THE ACT – AN OVERVIEW**

#### **Part 4**

#### **Mental Health: Miscellaneous Amendments and Repeals**

#### ***Section 75 – Assessment orders: amendment of the Criminal Procedure (Scotland) Act 1995***

174. This section amends the Criminal Procedure (Scotland) Act 1995 (“the 1995 Act”), as amended by the 2003 Act. This amendment makes provision in the 1995 Act (by the insertion of new section 145ZA) that where an accused person is present at the first calling of a case in a summary prosecution and a court is making the accused subject to an assessment order (to assess the extent of their mental disorder), the court may adjourn the case without calling on the accused to plead to any charge against him or her. Such an adjournment may be for a period not exceeding 28 days or, in the case of a further adjournment, a period not exceeding 7 days. Previously the effect of section 144 was that in these circumstances the accused had to be called upon to plead at the first calling when he or she may have been unfit to do so.
175. Section 145 of the 1995 Act provides for a similar power, where the accused is present at the first calling, for a court to adjourn the case without calling on the accused to plead in circumstances where the accused is being remanded in custody or on bail, or ordained to appear at a fixed diet.