

# **CRIMINAL PROCEEDINGS ETC. (REFORM) (SCOTLAND) ACT 2007**

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## **EXPLANATORY NOTES**

### **INTRODUCTION**

#### **Part 1 - Bail**

##### ***Section 6 – Time for dealing with applications***

49. Subsection (1) amends section 22A of the 1995 Act to provide that when an accused first appears in court from custody, a decision must be taken on his admittance to or refusal of bail by the end of the following day. At present that decision must be taken within 24 hours, which has to be interpreted literally. This means that a case which called at 14.20 on Wednesday and was continued overnight would have to be dealt with by 14.20 on the Thursday even if there were priority cases to be called that day. The change gives a little more flexibility while still ensuring that the court can only keep someone in custody for one night before taking a substantive decision on whether to grant or refuse bail.
50. Similar changes are made by subsections (2) and (3) in respect of the procedure where an accused seeks bail at any hearing other than the first one in the case (section 23 of the 1995 Act) and where bail is sought pending the hearing of a stated case (section 177 of the 1995 Act).
51. And, in respect of all three procedures, the Act is amended to clarify that for these purposes Saturdays, Sundays and court holidays are not to be regarded as the following day, unless the court is sitting on one of those days.
52. Subsections (4), (5) and (6) bring the process for appealing against the refusal of bail (under sections 200(9), 201(4) or 245J) into line with the other instances of this nature in the 1995 Act. Section 200(9) covers remand for inquiry into the physical or mental condition of the accused; section 201(4) covers adjournment before sentence; and section 245J covers breach of certain court orders (such as probation and community service orders). These amendments provide that an appeal in relation to bail must be lodged with the clerk of the court from which the appeal is taken. Provision is made that the clerk of court must in turn send the note of appeal to the Clerk of Justiciary.