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SCOTTISH STATUTORY INSTRUMENTS

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**2002 No. 443**

**The Sexual Offences (Procedure and Evidence) (Scotland) Act  
2002 (Commencement and Transitional Provisions) Order 2002**

**Transitional and savings provisions**

4.—(1) The amendments to the 1995 Act effected by section 1 (prohibition of personal conduct of defence in cases of certain sexual offences) and section 2 (appointment of solicitor by court in such cases and availability of legal aid) of the Act and the schedule to the Act shall not apply in relation to any proceedings where the indictment or complaint, as the case may be, has been served on the accused before 1st November 2002.

(2) In any case where the provisions of paragraph (1) of this Article apply, and a second or further indictment or complaint as the case may be is served on the accused on or after 1st November 2002, the amendments effected by sections 1 and 2 of the Act and the schedule to the Act shall apply, but only in respect of any charges to which the second or further indictment or complaint relates.

(3) The amendments to the 1995 Act effected by—

- (a) paragraph 2 of the schedule to the Act shall not apply in relation to any proceedings where the arrest of the accused has taken place prior to 1st November 2002; and
- (b) paragraph 3 of the schedule to the Act shall not apply in relation to any proceedings where the judicial examination of the accused has taken place prior to 1st November 2002.

(4) The amendments to the 1995 Act effected by section 6 (accused to give notice of defence of consent) of the Act shall not apply in relation to any proceedings where, at 1st November 2002, the trial diet has already commenced or, at that date, there are less than 14 days until the date fixed for the commencement of the trial diet, unless subsequently the trial diet is adjourned and there are at least 14 days from the date of the adjournment until the date of commencement of the new trial diet.

(5) The amendments to the 1995 Act effected by section 7 (restrictions on evidence relating to sexual offences), section 8 (exception to restrictions under section 274 of 1995 Act) and section 10 (disclosure of accused's previous convictions where court allows questioning or evidence under section 275 of the 1995 Act) of the Act shall not apply in relation to any proceedings where, at 1st November 2002, the trial diet has already commenced or there are less than 21 days until the date fixed for the commencement of the trial diet, unless subsequently the date fixed for the trial diet is adjourned and there are at least 21 days from the date of the adjournment until the date of commencement of the new trial diet.