



# Criminal Justice and Licensing (Scotland) Act 2010

2010 asp 13

## PART 3

### CRIMINAL PROCEDURE

#### *Disclosure of convictions etc.*

#### **70 Disclosure of convictions and non-court disposals**

(1) After section 101 of the 1995 Act insert—

##### **“101A Post-offence convictions etc.**

- (1) This section applies where an accused person is convicted of an offence (“offence O”) on indictment.
- (2) The court may, in deciding on the disposal of the case, have regard to—
  - (a) any conviction in respect of the accused which occurred on or after the date of offence O but before the date of conviction in respect of that offence,
  - (b) any of the alternative disposals in respect of the accused that are mentioned in subsection (3).
- (3) Those alternative disposals are—
  - (a) a—
    - (i) fixed penalty under section 302(1) of this Act, or
    - (ii) compensation offer under section 302A(1) of this Act, that has been accepted (or deemed to have been accepted) on or after the date of offence O but before the date of conviction in respect of that offence,
  - (b) a work order under section 303ZA(6) of this Act that has been completed on or after the date of offence O but before the date of conviction in respect of that offence.

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*Status: This is the original version (as it was originally enacted).*

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- (4) The court may have regard to any such conviction or alternative disposal only if it is—
  - (a) specified in a notice laid before the court by the prosecutor, and
  - (b) admitted by the accused or proved by the prosecutor (on evidence adduced then or at another diet).
- (5) A reference in this section to a conviction which occurred on or after the date of offence O is a reference to such a conviction by a court in any part of the United Kingdom or in any other member State of the European Union.”.

(2) For section 166A of that Act substitute—

**“166A Post-offence convictions etc.**

- (1) This section applies where an accused person is convicted of an offence (“offence O”) on summary complaint.
  - (2) The court may, in deciding on the disposal of the case, have regard to—
    - (a) any conviction in respect of the accused which occurred on or after the date of offence O but before the date of conviction in respect of that offence,
    - (b) any of the alternative disposals in respect of the accused that are mentioned in subsection (3).
  - (3) Those alternative disposals are—
    - (a) a—
      - (i) fixed penalty under section 302(1) of this Act, or
      - (ii) compensation offer under section 302A(1) of this Act, that has been accepted (or deemed to have been accepted) on or after the date of offence O but before the date of conviction in respect of that offence,
    - (b) a work order under section 303ZA(6) of this Act that has been completed on or after the date of offence O but before the date of conviction in respect of that offence.
  - (4) The court may have regard to any such conviction or alternative disposal only if it is—
    - (a) specified in a notice laid before the court by the prosecutor, and
    - (b) admitted by the accused or proved by the prosecutor (on evidence adduced then or at another diet).
  - (5) A reference in this section to a conviction which occurred on or after the date of offence O is a reference to such a conviction by a court in any part of the United Kingdom or in any other member State of the European Union.”.
- (3) In section 302 of that Act (fixed penalty: conditional offer by procurator fiscal), in subsection (2), after sub-paragraph (ii) of paragraph (e) insert—
- “(ia) that that fact may be disclosed to the court also in any proceedings for an offence to which the alleged offender is, or is liable to become, subject at such time as the offer is accepted;”.

- (4) In section 302A of that Act (compensation offer by procurator fiscal), in subsection (2), after sub-paragraph (ii) of paragraph (f) insert—
- “(ia) that that fact may be disclosed to the court also in any proceedings for an offence to which the alleged offender is, or is liable to become, subject at such time as the offer is accepted;”.
- (5) In section 303ZA of that Act (work orders), in subsection (3)—
- (a) after sub-paragraph (i) of paragraph (e) insert—
- “(ia) that if a work offer is not accepted, that fact may be disclosed to the court in any proceedings for the offence to which the offer relates;”,
- (b) in sub-paragraph (ii) of that paragraph, for “the offer has been accepted” substitute “a resultant work order has been completed”,
- (c) after sub-paragraph (ii) of that paragraph insert—
- “(ia) that that fact may be disclosed to the court also in any proceedings for an offence to which the alleged offender is, or is liable to become, subject at such time as the offer is accepted;”, and
- (d) in sub-paragraph (iii) of that paragraph, for “work order under subsection (6) below” substitute “resultant work order”.

## **71 Convictions by courts in other EU member States**

- (1) Schedule 4 makes modifications of the 1995 Act and other enactments for the purposes of and in connection with implementing obligations of the United Kingdom created by or arising under the Framework Decision (so far as they have effect in or as regards Scotland).
- (2) The Scottish Ministers may by order make further provision for the purposes of and in connection with implementing those obligations.
- (3) The provision may, in particular, confer functions—
- (a) on the Scottish Ministers,
- (b) on other persons.
- (4) An order under subsection (2) may modify any enactment.
- (5) In this section, the “Framework Decision” means Council Framework Decision 2008/675/JHA of 24 July 2008 on taking account of convictions in the Member States of the European Union in the course of new criminal proceedings.