

Draft Order laid before the Scottish Parliament under section 33(3) of the Victims and Witnesses (Scotland) Act 2014 for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2019 No.

CRIMINAL PROCEDURE

**The Victims and Witnesses (Scotland) Act
2014 (Supplementary Provision) Order 2019**

Made - - - - 2019

Coming into force in accordance with article 1(2)

The Scottish Ministers make the following Order in exercise of the powers conferred by section 33 of the Victims and Witnesses (Scotland) Act 2014⁽¹⁾ and all other powers enabling them to do so.

In accordance with section 33(3) of that Act, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

Citation and commencement

1.—(1) This Order may be cited as the Victims and Witnesses (Scotland) Act 2014 (Supplementary Provision) Order 2019.

(2) This Order comes into force on the day after the day on which it is made.

Amendment of the Criminal Procedure (Scotland) Act 1995

2.—(1) The Criminal Procedure (Scotland) Act 1995⁽²⁾ is amended as follows.

(2) For the definition of “fine” in section 307(1) (interpretation), substitute—

““fine” includes any pecuniary penalty and an instalment of a fine but does not include—

- (a) a pecuniary forfeiture;
- (b) pecuniary compensation; or
- (c) a victim surcharge imposed under section 253F;”.

(1) 2014 asp 1.
(2) 1995 c.46.

Draft Legislation: This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: The Victims and Witnesses (Scotland) Act 2014 (Supplementary Provision) Order 2019 No. 388

St Andrew's House,
Edinburgh
Date

Name
A member of the Scottish Government

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes supplementary provision for the purposes of, and for giving full effect to, section 26 of the Victims and Witnesses (Scotland) Act 2014 (“the 2014 Act”). Section 26 of the 2014 Act adds sections 253F to 253H and 253J to the Criminal Procedure (Scotland) Act 1995 (“the 1995 Act”) which provide for the introduction of a victim surcharge. The victim surcharge is to be imposed by the court on an offender who is sentenced to a sentence or class of sentence that is prescribed by the Scottish Ministers in Regulations.

Article 2(2) of this Order substitutes a new definition of “fine” into section 307 of the 1995 Act in order to exclude the victim surcharge from that definition. Section 253J of the 1995 Act (as inserted by section 26 of the 2014 Act) applies certain of the fine enforcement provisions of the 1995 Act to the victim surcharge, subject to some modifications, as they apply in relation to fines. Section 253J therefore implies that the victim surcharge is not a fine. This Order makes that position express in section 307 of the 1995 Act.