

SCHEDULE 2

Variable monetary penalties etc.

CHAPTER 3

Effect on criminal proceedings etc. and late payment interest

Variable monetary penalties: effect on criminal proceedings etc.

17.—(1) Sub-paragraph (2) applies where—

- (a) a variable monetary penalty is imposed on a person;
- (b) a VMP undertaking is accepted from a person; or
- (c) both such a penalty is imposed, and such an undertaking is accepted from, a person.

(2) No criminal proceedings may be commenced against the person for an offence constituted by an act or omission if the variable monetary penalty or, as the case may be, the VMP undertaking related to that offence constituted by that act or omission.

(3) Where a notice of intent relating to a variable monetary penalty is served on a person in respect of an offence constituted by an act or omission, the period mentioned in sub-paragraph (4) is not to be counted in calculating any period within which criminal proceedings in respect of that offence constituted by that act or omission must be commenced.

(4) The period is that beginning with the day on which the notice of intent is served and ending with the day which is the final day on which written representations may be made in relation to the notice.

(5) The reference in sub-paragraph (2) to criminal proceedings being commenced includes a reference to—

- (a) a warning being given by the procurator fiscal;
- (b) a conditional offer (within the meaning of section 302 of the Criminal Procedure (Scotland) Act 1995⁽¹⁾) being sent;
- (c) a compensation offer under section 302A⁽²⁾ of that Act being sent;
- (d) a combined offer under section 302B⁽³⁾ of that Act being sent; and
- (e) a work order under section 302ZA⁽⁴⁾ of that Act being made.

Late payment interest

18.—(1) If a person fails to pay in full—

- (a) a variable monetary penalty;
- (b) a non-compliance penalty; or
- (c) a costs recovery notice,

by the payment date, interest is payable on the amount outstanding (“late payment interest”) in accordance with the following sub-paragraphs.

(1) 1995 c.46. Section 302 was amended by section 50(1) of the Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6) (“the 2007 Act”) and section 70(3) of the Criminal Justice and Licensing (Scotland) Act 2010 (asp 13) (“the 2010 Act”).

(2) Section 302A was added by the 2007 Act, section 50(2) and amended by the 2010 Act, section 70(4).

(3) Section 302B was added by the 2007 Act, section 50(2).

(4) Section 302ZA was added by the 2007 Act, section 51 and amended by the 2007 Act, section 70(5).

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(2) Interest falls to be paid at a rate of 8 per cent per annum calculated on a daily basis for the period beginning with the day after the payment date and ending on the day payment is made or recovered.

(3) The total amount of interest payable is not to exceed the amount of the variable monetary penalty, non-compliance penalty or costs recovery notice to which the interest relates.

(4) In this article, “payment date” means—

- (a) in relation to a variable monetary penalty, the date payment is due in accordance with paragraph 8(1) or, in the case of an appeal, 8(2);
- (b) in relation to a costs recovery notice, the date payment is due in accordance with paragraph 11(1) or, in the case of an appeal, 11(2); and
- (c) in relation to a non-compliance penalty, the date payment is due in accordance with paragraph 16(1) or, in the case of an appeal, 16(2).