



# Criminal Procedure (Scotland) Act 1995

## 1995 CHAPTER 46

### PART II

#### POLICE FUNCTIONS

##### *Police liberation*

#### [<sup>F1</sup>22ZA Offences where undertaking breached

- (1) A person who without reasonable excuse breaches an undertaking given by the person under section 22—
  - (a) by reason of failing to appear at court as required under subsection (1C)(a) of section 22, or
  - (b) by reason of failing to comply with a condition imposed under subsection (1D) of that section,is guilty of an offence.
- (2) A person who is guilty of an offence under subsection (1) is liable on summary conviction to—
  - (a) a fine not exceeding level 3 on the standard scale, and
  - (b) imprisonment for a period—
    - (i) where conviction is in the JP court, not exceeding 60 days,
    - (ii) where conviction is in the sheriff court, not exceeding 12 months.
- (3) Despite subsection (1)(b), where (and to the extent that) the person breaches the undertaking by reason of committing an offence while subject to the undertaking—
  - (a) the person is not guilty of an offence under that subsection, and
  - (b) subsection (4) applies instead.
- (4) The court, in determining the sentence for the subsequent offence, must have regard to—
  - (a) the fact that the subsequent offence was committed in breach of the undertaking,

---

*Status: Point in time view as at 16/08/2013. This version of this provision has been superseded.*

**Changes to legislation:** *Criminal Procedure (Scotland) Act 1995, Section 22ZA is up to date with all changes known to be in force on or before 08 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

---

- (b) the number of undertakings to which the person was subject when that offence was committed,
  - (c) any previous conviction of the person of an offence under subsection (1)(b),
  - (d) the extent to which the sentence or disposal in respect of any previous conviction differed, by virtue of this subsection, from that which the court would have imposed but for this subsection.
- (5) The reference in subsection (4)(c) to any previous conviction of an offence under subsection (1)(b) includes any previous conviction by a court in England and Wales, Northern Ireland or a member State of the European Union other than the United Kingdom of an offence that is equivalent to an offence under subsection (1)(b).
- (6) The references in subsection (4)(d) to subsection (4) are to be read, in relation to a previous conviction by a court referred to in subsection (5), as references to any provision that is equivalent to subsection (4).
- (7) Any issue of equivalence arising in pursuance of subsection (5) or (6) is for the court to determine.
- (8) Subsections (3)(b) and (4) apply only if the fact that the subsequent offence was committed while the person was subject to an undertaking is specified in the complaint or indictment.
- (9) In this section and section 22ZB, “the subsequent offence” is the offence committed by a person while the person is subject to an undertaking.]

---

#### **Textual Amendments**

- F1** Ss. 22ZA, 22ZB inserted (28.3.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), ss. 55, 206(1); S.S.I. 2011/178, art. 2, sch.

**Status:**

Point in time view as at 16/08/2013. This version of this provision has been superseded.

**Changes to legislation:**

Criminal Procedure (Scotland) Act 1995, Section 22ZA is up to date with all changes known to be in force on or before 08 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.