



Criminal Procedure (Scotland) Act 1995

1995 CHAPTER 46

PART II

POLICE FUNCTIONS

Police liberation

[^{F1}22ZB Evidential and procedural provision

- (1) In any proceedings in relation to an offence under section 22ZA(1), the fact that a person—
 - (a) breached an undertaking given by the person under section 22 by reason of failing to appear at court as required under subsection (1C)(a) of that section, or
 - (b) was subject to any particular condition imposed under subsection (1D) of that section,is, unless challenged by preliminary objection before the person's plea is recorded, to be held as admitted.
- (2) In any proceedings in relation to an offence under section 22ZA(1) or (as the case may be) the subsequent offence—
 - (a) something in writing, purporting to be an undertaking given by a person under section 22 (and bearing to be signed and certified), is sufficient evidence of the terms of the undertaking so given,
 - (b) a document purporting to be a notice (or copy of a notice) effected under subsection (1F) of that section is sufficient evidence of the terms of the notice,
 - (c) an undertaking whose terms are modified under paragraph (b) of that subsection is to be regarded as if given in the terms as so modified.
- (3) The fact that the subsequent offence was committed while the person was subject to an undertaking is to be held as admitted, unless challenged—
 - (a) in summary proceedings, by preliminary objection before the person's plea is recorded, or

Status: Point in time view as at 16/08/2013. This version of this provision has been superseded.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 22ZB is up to date with all changes known to be in force on or before 07 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) in the case of proceedings on indictment, by giving notice of a preliminary objection in accordance with section 71(2) or 72(6)(b)(i) of this Act.
- (4) Where the maximum penalty in respect of the subsequent offence is specified by (or by virtue of) any enactment, that maximum penalty is, for the purposes of the court's determination of the appropriate sentence or disposal in respect of that offence, increased—
- (a) where it is a fine, by the amount equivalent to level 3 on the standard scale, and
 - (b) where it is a period of imprisonment—
 - (i) as respects conviction in the JP court, by 60 days,
 - (ii) as respects conviction in the sheriff court or the High Court, by 6 months,
 even if the maximum penalty as so increased exceeds the penalty which it would otherwise be competent for the court to impose.
- (5) A penalty under section 22ZA(2) may be imposed in addition to any other penalty which it is competent for the court to impose even if the total of penalties imposed may exceed the maximum penalty which it is competent to impose in respect of the original offence.
- (6) The reference in subsection (5) to a penalty being imposed in addition to another penalty means, in the case of sentences of imprisonment or detention—
- (a) where the sentences are imposed at the same time (whether or not in relation to the same complaint), framing the sentences so that they have effect consecutively,
 - (b) where the sentences are imposed at different times, framing the sentence imposed later so that (if the earlier sentence has not been served) the later sentence has effect consecutive to the earlier sentence.
- (7) Subsection (6)(b) is subject to section 204A of this Act.
- (8) The court must state—
- (a) where the sentence or disposal in respect of the subsequent offence is different from that which the court would have imposed but for section 22ZA(4), the extent of and the reasons for that difference, or
 - (b) otherwise, the reasons for there being no such difference.
- (9) A court which finds a person guilty of an offence under section 22ZA(1) may remit that person for sentence in respect of that offence to any court which is considering the original offence.
- (10) At any time before the trial of an accused in summary proceedings for the original offence, it is competent to amend the complaint to include an additional charge of an offence under section 22ZA(1).
- (11) In this section, “the original offence” is the offence in relation to which an undertaking is given.]

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.](#)

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