



Criminal Procedure (Scotland) Act 1995

1995 CHAPTER 46

PART III

BAIL

27 Breach of bail conditions: offences.

- (1) Subject to subsection (7) below, an accused who having been granted bail fails without reasonable excuse—
- (a) to appear at the time and place appointed for any diet of which he has been given due notice [^{F1}or at which he is required by this Act to appear]; or
 - (b) to comply with any other condition imposed on bail,
- shall, subject to subsection (3) below, be guilty of an offence and liable on conviction to the penalties specified in subsection (2) below.
- (2) The penalties mentioned in subsection (1) above are—
- (a) a fine not exceeding level 3 on the standard scale; and
 - (b) imprisonment for a period—
 - (i) where conviction is in the [^{F2}JP court], not exceeding 60 days; or
 - (ii) in any other case, not exceeding [^{F3}12] months.
- (3) Where, and to the extent that, the failure referred to in subsection (1)(b) above consists in the accused having committed an offence while on bail (in this section referred to as “the subsequent offence”), he shall not be guilty of an offence under that subsection but, subject to subsection (4) below, the court which sentences him for the subsequent offence shall, in determining the appropriate sentence or disposal for that offence, have regard to—
- (a) the fact that the offence was committed by him while on bail and the number of bail orders to which he was subject when the offence was committed;
 - (b) any previous conviction of the accused of an offence under subsection (1)(b) above; and

Changes to legislation: Criminal Procedure (Scotland) Act 1995, Section 27 is up to date with all changes known to be in force on or before 05 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) View outstanding changes

- (c) the extent to which the sentence or disposal in respect of any previous conviction of the accused differed, by virtue of this subsection, from that which the court would have imposed but for this subsection.
- [^{F4}[^{F5}(3A) The reference in subsection (3)(b) to any previous conviction of an offence under subsection (1)(b) includes—
- (a) any previous conviction by a court in England and Wales or Northern Ireland, and
 - (b) if the court considers appropriate, any previous conviction by a court in a member State of the European Union,
- of an offence that is equivalent to an offence under subsection (1)(b).]
- (3B) The references in subsection (3)(c) to subsection (3) are to be read, in relation to a previous conviction by a court referred to in subsection (3A), as references to any provision that is equivalent to subsection (3).
- (3C) Any issue of equivalence arising in pursuance of subsection (3A) or (3B) is for the court to determine.]
- (4) The court shall not, under subsection (3) above, have regard to the fact that the subsequent offence was committed while the accused was on bail unless that fact is libelled in the indictment or, as the case may be, specified in the complaint.
- [^{F6}(4A) The fact that the subsequent offence was committed while the accused was on bail shall, unless challenged—
- (a) in the case of proceedings on indictment, by giving notice of a preliminary objection [^{F7}in accordance with section 71(2) or 72(6)(b)(i)] of this Act; or
 - (b) in summary proceedings, by preliminary objection before his plea is recorded, be held as admitted.]

[^{F8}(4B) In any proceedings in relation to an offence under subsection (1) above or subsection 7 below, the fact that (as the case may be) an accused—

 - (a) was on bail;
 - (b) was subject to any particular condition of bail;
 - (c) failed to appear at a diet; or
 - (d) was given due notice of a diet,

shall, unless challenged in the manner described in paragraph (a) or (b) of subsection (4A) above, be held as admitted.]

(5) Where the maximum penalty in respect of the subsequent offence is specified by or by virtue of any enactment, that maximum penalty shall, for the purposes of the court's determination, by virtue of subsection (3) above, of the appropriate sentence or disposal in respect of that offence, be increased—

 - (a) where it is a fine, by the amount for the time being equivalent to level 3 on the standard scale; and
 - (b) where it is a period of imprisonment—
 - (i) as respects a conviction in the High Court or the sheriff court, by 6 months; and
 - (ii) as respects a conviction in the [^{F2}JP court], by 60 days,

notwithstanding that the maximum penalty as so increased exceeds the penalty which it would otherwise be competent for the court to impose.

Changes to legislation: Criminal Procedure (Scotland) Act 1995, Section 27 is up to date with all changes known to be in force on or before 05 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) View outstanding changes

- (6) Where the sentence or disposal in respect of the subsequent offence is, by virtue of subsection (3) above, different from that which the court would have imposed but for that subsection, the court shall state the extent of and the reasons for that difference.
- [^{F9}(6A) Where, despite the requirement to have regard to the matters specified in paragraphs (a) to (c) of subsection (3) above, the sentence or disposal in respect of the subsequent offence is not different from that which the court would have imposed but for that subsection, the court shall state (as appropriate, by reference to those matters) the reasons for there being no difference.]
- (7) An accused who having been granted bail in relation to solemn proceedings fails without reasonable excuse to appear at the time and place appointed for any diet of which he has been given due notice (where such diet is in respect of solemn proceedings) shall be guilty of an offence and liable on conviction on indictment to the following penalties—
- (a) a fine; and
 - (b) imprisonment for a period not exceeding [^{F10}5] years.
- (8) At any time before the trial of an accused under solemn procedure for the original offence, it shall be competent—
- (a) to amend the indictment to include an additional charge of an offence under this section;
 - (b) to include in the list of witnesses or productions relating to the original offence, witnesses or productions relating to the offence under this section.
- [^{F11}(8A) 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 this section.]
- (9) [^{F12}A penalty under subsection (2) or (7) above shall] be imposed in addition to any other penalty which it is competent for the court to impose, notwithstanding that the total of penalties imposed may exceed the maximum penalty which it is competent to impose in respect of the original offence.
- [^{F13}(9A) The reference in subsection (9) above 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 or indictment), 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.
- (9B) Subsection (9A)(b) above is subject to section 204A of this Act.]
- (10) A court which finds an accused guilty of an offence under this section may remit the accused for sentence in respect of that offence to any court which is considering the original offence.
- (11) In this section “the original offence” means the offence with which the accused was charged when he was granted bail or an offence charged in the same proceedings as that offence.

Changes to legislation: Criminal Procedure (Scotland) Act 1995, Section 27 is up to date with all changes known to be in force on or before 05 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) View outstanding changes

Textual Amendments

- F1** Words in s. 27(1)(a) inserted (1.2.2005) by [Criminal Procedure \(Amendment\) \(Scotland\) Act 2004](#) (asp 5), ss. 25, 27(1), [Sch. para. 8\(a\)](#); S.S.I. 2004/405, [art. 2](#), Sch. 1 (subject to arts. 3-5)
- F2** Words in s. 27(2)(b)(i)(5)(b)(ii) substituted (10.3.2008, 2.6.2008, 8.12.2008, 23.2.2009 and 14.12.2009 for certain purposes, otherwise 22.2.2010) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007](#) (asp 6), ss. 80, 84, [Sch. para. 26\(c\)](#); S.S.I. 2008/42, [art. 3](#), Sch.; S.S.I. 2008/192, [art. 3](#), Sch.; S.S.I. 2008/329, [art. 3](#), Sch.; S.S.I. 2008/362, [art. 3](#), Sch.; S.S.I. 2009/432, [art. 3](#), Schs. 1, 2
- F3** Word in s. 27(2)(b)(ii) substituted (10.12.2007) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007](#) (asp 6), ss. [3\(1\)\(a\)](#), 84; S.S.I. 2007/479, [art. 3\(1\)](#), Sch. (as amended by S.S. I. 2007/527)
- F4** S. 27(3A) substituted (31.12.2020) by [The Criminal Justice \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020](#) (S.S.I. 2020/339), regs. 1(3), [13\(4\)](#) (with reg. 16)
- F5** S. 27(3A)-(3C) inserted (13.12.2010 for all purposes in respect of offences committed on or after this date) by [Criminal Justice and Licensing \(Scotland\) Act 2010](#) (asp 13), ss. 71(1), 206(1), [Sch. 4 para. 3](#); S.S.I. 2010/413, [art. 2](#), Sch.
- F6** S. 27(4A) inserted (4.7.1996) by 1996 c. 25, s. [73\(2\)](#)
- F7** Words in s. 27(4A)(a) substituted (1.2.2005) by [Criminal Procedure \(Amendment\) \(Scotland\) Act 2004](#) (asp 5), ss. 25, 27(1), [Sch. para. 8\(b\)](#); S.S.I. 2004/405, [art. 2](#), Sch. 1 (subject to arts. 3-5)
- F8** S. 27(4B) inserted (10.12.2007) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007](#) (asp 6), ss. [3\(1\)\(b\)](#), 84 (as amended by S.S.I. 2007/540, art. 3); S.S.I. 2007/479, [art. 3\(1\)](#), Sch. (as amended by S.S.I. 2007/527)
- F9** S. 27(6A) inserted (10.12.2007) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007](#) (asp 6), ss. [3\(1\)\(c\)](#), 84; S.S.I. 2007/479, [art. 3\(1\)](#), Sch. (as amended by S.S. I. 2007/527)
- F10** Word in s. 27(7)(b) substituted (10.12.2007) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007](#) (asp 6), ss. [3\(1\)\(d\)](#), 84; S.S.I. 2007/479, [art. 3\(1\)](#), Sch. (as amended by S.S. I. 2007/527)
- F11** S. 27(8A) inserted (28.3.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010](#) (asp 13), ss. [62\(1\)](#), 206(1); S.S.I. 2011/178, art. 2, sch.
- F12** Words in s. 27(9) substituted (10.12.2007) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007](#) (asp 6), ss. [3\(1\)\(e\)](#), 84; S.S.I. 2007/479, [art. 3\(1\)](#), Sch. (as amended by S.S. I. 2007/527)
- F13** S. 27(9A)(9B) inserted (10.12.2007) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007](#) (asp 6), ss. [3\(1\)\(f\)](#), 84; S.S.I. 2007/479, [art. 3\(1\)](#), Sch. (as amended by S.S. I. 2007/527)

Changes to legislation:

Criminal Procedure (Scotland) Act 1995, Section 27 is up to date with all changes known to be in force on or before 05 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.

[View outstanding changes](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 5A inserted by [2010 asp 13 Sch. 7 para. 26](#)
- s. 13(1B)(1C) inserted by [2006 asp 10 s. 82\(2\)](#)
- s. 13(2)(aa) inserted by [2006 asp 10 s. 82\(3\)\(b\)](#)
- s. 13(3A) inserted by [2006 asp 10 s. 82\(4\)](#)
- s. 13(5)(ba) inserted by [2006 asp 10 s. 82\(5\)\(a\)](#)
- s. 13(6)(a)(iii) and word inserted by [2006 asp 10 s. 82\(6\)\(b\)](#)
- s. 13(8) inserted by [2006 asp 10 s. 82\(7\)](#)
- s. 22(5A) inserted by [2007 asp 6 s. 7\(2\)\(g\)](#)
- s. 22A(1A) inserted by [2023 asp 4 s. 1\(2\)](#)
- s. 23B(1)(1A) substituted for s. 23B(1) by [2023 asp 4 s. 2\(2\)\(a\)](#)
- s. 23B(6A) inserted by [2023 asp 4 s. 1\(3\)\(c\)](#)
- s. 23B(8)-(10) inserted by [2023 asp 4 s. 2\(2\)\(c\)](#)
- s. 23C(1A) inserted by [2023 asp 4 s. 2\(3\)\(b\)](#)
- s. 23C(3) inserted by [2023 asp 4 s. 2\(3\)\(c\)](#)
- s. 24(2C) inserted by [2023 asp 4 s. 4\(4\)](#)
- s. 24(2AA) inserted by [2023 asp 4 s. 4\(2\)](#)
- s. 73A inserted by [2004 asp 3 s. 2\(3\)](#)
- s. 167(7D)(7E) inserted by [2007 asp 17 sch. 4 para. 1\(3\)](#)
- s. 167(7D) words substituted by [2010 asp 13 Sch. 3 para. 16\(2\)](#)
- s. 167(7E) words substituted by [2010 asp 13 Sch. 3 para. 16\(3\)](#)
- s. 194ZA repealed by [2014 asp 18 sch. 3 para. 25](#)
- s. 200A inserted by [2016 asp 1 s. 85](#)
- s. 205A added by [1997 c. 48 s. 1\(1\)](#) (This amendment not applied to legislation.gov.uk. 1997 c. 48, s. 1 repealed (27.6.2003) without ever being in force by [2003 asp 7, s. 19\(3\)](#); S.S.I. 2003/288, art. 2, Sch.)
- s. 210ZA inserted by [2023 asp 4 s. 5](#)
- s. 249(4A)-(4D) inserted by [2014 asp 1 s. 24](#)
- s. 271D(4A) inserted by [2019 asp 8 s. 6\(4\)](#)
- s. 271F(2)(aa) inserted by [2019 asp 8 s. 10\(4\)](#)
- s. 271AA inserted by [2019 asp 8 s. 6\(2\)](#)
- s. 271BZD inserted by [2019 asp 8 s. 3\(2\)](#)
- s. 288AB288AC inserted by [2024 asp 1 s. 32\(3\)](#)
- Sch. 5A added by [1997 c. 48 s. 1\(2\)](#) (This amendment not applied to legislation.gov.uk. 1997 c. 48, s. 1 repealed (27.6.2003) without ever being in force by [2003 asp 7, s. 19\(3\)](#); S.S.I. 2003/288, art. 2, Sch.)