



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; 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 district court, not exceeding 60 days; or
 - (ii) in any other case, not exceeding 3 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

Status: This is the original version (as it was originally enacted).

- (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.
- (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.
- (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 district 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.
- (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.
- (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 2 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.
- (9) The penalties provided for in subsection (2) above may 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.
- (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.