



# Criminal Procedure (Scotland) Act 1995

## 1995 CHAPTER 46

### PART XIII

#### MISCELLANEOUS

##### *Fixed penalties*

#### [<sup>F1</sup>302C Recall of fixed penalty or compensation offer

- (1) Where an alleged offender is deemed to have accepted—
  - (a) a fixed penalty offer by virtue of section 302(2)(ca)(ii) of this Act; or
  - (b) a compensation offer by virtue of section 302A(2)(d)(ii) of this Act,the alleged offender may request that it be recalled.
- (2) A request for recall under subsection (1) above is valid only if—
  - (a) the alleged offender claims that he—
    - (i) did not receive the offer concerned; and
    - (ii) would (if he had received it) have refused the offer; or
  - (b) the alleged offender claims that—
    - (i) although he received the offer concerned, it was not practicable by reason of exceptional circumstances for him to give notice of refusal of the offer; and
    - (ii) he would (but for those circumstances) have refused the offer.
- (3) A request for recall of a fixed penalty offer or a compensation offer requires to be made—
  - (a) to the clerk of court referred to in the offer; and
  - (b) no later than 7 days after the expiry of the period specified in the offer for payment of the fixed penalty or compensation offer or, where a notice is sent in pursuance of section 303(1A)(a) of this Act, no later than 7 days after it is sent.

---

**Changes to legislation:** *Criminal Procedure (Scotland) Act 1995, Section 302C is up to date with all changes known to be in force on or before 04 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*

---

- (4) The clerk of court may, on cause shown by reference to subsection (2) above, consider a request for recall of such an offer despite its being made outwith the time limit applying by virtue of subsection (3)(b) above.
- (5) The clerk of court may, following receipt of such a request—
  - (a) uphold the fixed penalty offer or compensation offer; or
  - (b) recall it.
- (6) The alleged offender may, within 7 days of a decision under subsection (5)(a) above, apply to the court specified in the offer for a review of the decision (including as it involves a question which arose by reference to subsections (2) to (4) above).
- (7) In a review under subsection (6) above, the court may—
  - (a) confirm or quash the decision of the clerk;
  - (b) in either case, give such direction to the clerk as the court considers appropriate.
- (8) The decision of the court in a review under subsection (6) above shall be final.
- (9) The clerk of court shall, without delay, notify the procurator fiscal of—
  - (a) a request for recall under subsection (1) above;
  - (b) an application for review under subsection (6) above;
  - (c) any decision under subsection (5) or (7) above.
- (10) For the purposes of this section, a certificate given by the procurator fiscal as to the date on which a fixed penalty offer or compensation order was sent shall be sufficient evidence of that fact.]

---

#### **Textual Amendments**

- F1** Ss. 302A-302C inserted (10.3.2008) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#), **ss. 50(2), 84**; S.S.I. 2008/42, **art. 3**, Sch.

**Changes to legislation:**

Criminal Procedure (Scotland) Act 1995, Section 302C is up to date with all changes known to be in force on or before 04 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.)