



Criminal Proceedings etc. (Reform) (Scotland) Act 2007

2007 asp 6

PART 1

BAIL

3 Breach of bail conditions

- (1) In section 27 (breach of bail conditions: offences) of the 1995 Act—
- (a) in subsection (2), in paragraph (b)(ii), for the word “3” there is substituted “12”,
 - (b) after subsection (4A) there is inserted—

“(4B) In any proceedings in relation to an offence under subsection (1) above, 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.”,
 - (c) after subsection (6) there is inserted—

“(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.”,
 - (d) in subsection (7)(b), for the word “2” there is substituted “5”,
 - (e) in subsection (9), for the words “The penalties provided for in subsection (2) above may” there is substituted “A penalty under subsection (2) or (7) above shall”,
 - (f) after subsection (9) there is inserted—

Status: This is the original version (as it was originally enacted).

“(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.”.

(2) In section 28 (breach of bail conditions: arrest of offender etc.) of that Act—

(a) after subsection (1) there is inserted—

“(1A) Where an accused who has been released on bail is arrested by a constable (otherwise than under subsection (1) above), the accused may be detained in custody under this subsection if the constable has reasonable grounds for suspecting that the accused has breached, or is likely to breach, any condition imposed on his bail.

(1B) Subsection (1A) above—

- (a) is without prejudice to any other power to detain the accused;
 - (b) applies even if release of the accused would be required but for that subsection.”,
- (b) in subsection (2), for the words “this section” there is substituted “subsection (1) above, or is detained under subsection (1A) above,”.