
Changes to legislation: Criminal Justice (Scotland) Act 2016, Cross Heading: Breach by committing offence is up to date with all changes known to be in force on or before 20 December 2023. 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](#)

SCHEDULE 1 BREACH OF LIBERATION CONDITION

Breach by committing offence

- 3 (1) This paragraph applies—
- (a) where (and to the extent that) a person breaches a liberation condition by reason of committing an offence (“offence O”), but
 - (b) only if the fact that offence O was committed while the person was subject to the liberation condition is specified in the complaint or indictment.
- (2) In determining the penalty for offence O, the court must have regard—
- (a) to the fact that offence O was committed in breach of a liberation condition,
 - (b) if the breach is by reason of the person's failure to comply with the terms of an investigative liberation condition, to the matters mentioned in paragraph 4(1),
 - (c) if the breach is by reason of the person's failure to comply with the terms of an undertaking other than the requirement to appear at court, to the matters mentioned in paragraph 5(1).
- (3) Where the maximum penalty in respect of offence O is specified by (or by virtue of) an enactment, the maximum penalty is increased—
- (a) where it is a fine, by the amount equivalent to level 3 on the standard scale,
 - (b) where it is a period of imprisonment—
 - (i) as respects conviction in the justice of the peace court, by 60 days,
 - (ii) as respects conviction in the sheriff court or the High Court, by 6 months.
- (4) The maximum penalty is increased by sub-paragraph (3) even if the penalty as so increased exceeds the penalty which it would otherwise be competent for the court to impose.
- (5) In imposing a penalty in respect of offence O, the court must state—
- (a) where the penalty is different from that which the court would have imposed had sub-paragraph (2) not applied, the extent of and the reasons for that difference,
 - (b) otherwise, the reasons for there being no such difference.

Commencement Information

II [Sch. 1 para. 3](#) in force at 25.1.2018 by [S.S.I. 2017/345](#), [art. 3](#), [sch.](#)

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

- Act expiry of affecting provision 2022 asp 8, sch. para. 15 by [S.S.I. 2023/360 reg. 2\(a\)](#)