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SCOTTISH STATUTORY INSTRUMENTS

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**2008 No. 109**

**CRIMINAL LAW**

**The Criminal Proceedings etc. (Reform) (Scotland)  
Act 2007 (Supplemental Provisions) Order 2008**

*Made* - - - - *5th March 2008*  
*Coming into force* - - *10th March 2008*

The Scottish Ministers make the following Order in exercise of the powers conferred by section 82 of the Criminal Proceedings etc. (Reform) (Scotland) Act 2007<sup>(1)</sup> and all other powers enabling them to do so.

In accordance with section 82(3)(a) of that Act, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

**Citation and commencement**

1. This Order may be cited as the Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (Supplemental Provisions) Order 2008 and comes into force on 10th March 2008.

**Failure of accused to appear**

2. In section 102A (failure of accused to appear) of the Criminal Procedure (Scotland) Act 1995<sup>(2)</sup>—

- (a) in subsection (4)(b), after “section 27(1)(a)”, insert “or (7)”; and
- (b) in subsection (5), after the word “above”, insert “at any stage prior to conviction”.

**Liberation on undertaking**

3. In section 7 (liberation on undertaking) of the Criminal Proceedings etc. (Reform) (Scotland) Act 2007, in subsection (2)(b), after the word “Act” where it occurs in subsection (1D)(a) to be inserted into section 22 of the Criminal Procedure (Scotland) Act 1995, insert “(but as if any reference there to bail were reference to the undertaking)”.

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(1) 2007 asp 6.

(2) 1995 c. 46. Section 102A was added by section 32 of the Criminal Proceedings etc. (Reform) (Scotland) Act 2007.

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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St Andrew's House,  
Edinburgh  
5th March 2008

*KENNY MACASKILL*  
A member of the Scottish Executive

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order makes amendments to the Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (“the 2007 Act”) which are ancillary to the provisions of the 2007 Act.

Article 2 of the Order supplements the provisions of the Criminal Procedure (Scotland) Act 1995 (“the 1995 Act”) dealing with failure of the accused to appear at court. Section 102A of that Act (as inserted by section 32 of the 2007 Act) is amended to allow an arrest warrant to be granted both under new section 102A(2) and on petition (as referred to in section 34 of the 1995 Act) in respect of an offence under section 27(7) (failure to appear while on bail in a solemn case) of the 1995 Act. New section 102A of the 1995 Act is amended to put beyond any doubt that subsection (5) relates only to warrants granted before conviction.

Article 3 of the Order supplements section 7 of the 2007 Act which makes provision in relation to liberation of persons by the police on undertaking to appear. Section 7(2) of the 2007 Act amends section 22 of the 1995 Act. New section 22(1C) and (1D)(a) of the 1995 Act allow a person to be liberated on undertaking but subject to the standard conditions of bail found in section 24(5)(b), (c) and (ca) of the 1995 Act. New section 22(1D)(a) of the 1995 Act is amended to put beyond any doubt that references to bail in those standard conditions are to be read, in this context, as references to the undertaking which the person has given. Specific reference is made to offending while on bail in the standard condition found in section 24(5)(b) of the 1995 Act. This additional provision puts beyond any doubt that, in the context of liberation on undertaking, the condition is that the person does not commit an offence while they are on that undertaking.