



Criminal Procedure (Scotland) Act 1995

1995 CHAPTER 46

PART XIII

MISCELLANEOUS

Fixed penalties

302 Fixed penalty: conditional offer by procurator fiscal

- (1) Where a procurator fiscal receives a report that a relevant offence has been committed he may send to the alleged offender a notice under this section (referred to in this section as a conditional offer); and where he issues a conditional offer the procurator fiscal shall notify the clerk of court specified in it of the issue of the conditional offer and of its terms.
- (2) A conditional offer—
 - (a) shall give such particulars of the circumstances alleged to constitute the offence to which it relates as are necessary for giving reasonable information about the alleged offence;
 - (b) shall state—
 - (i) the amount of the appropriate fixed penalty for that offence;
 - (ii) the amount of the instalments by which the penalty may be paid; and
 - (iii) the intervals at which such instalments should be paid;
 - (c) shall indicate that if, within 28 days of the date on which the conditional offer was issued, or such longer period as may be specified in the conditional offer, the alleged offender accepts the offer by making payment of the fixed penalty or of the first instalment thereof to the clerk of court specified in the conditional offer at the address therein mentioned, any liability to conviction of the offence shall be discharged;
 - (d) shall state that proceedings against the alleged offender shall not be commenced in respect of that offence until the end of a period of 28 days from the date on which the conditional offer was issued, or such longer period as may be specified in the conditional offer; and

Status: This is the original version (as it was originally enacted).

- (e) shall state that acceptance of the offer in the manner described in paragraph (c) above by the alleged offender shall not be a conviction nor be recorded as such.
- (3) A conditional offer may be made in respect of more than one relevant offence and shall, in such a case, state the amount of the appropriate fixed penalty for all the offences in respect of which it is made.
- (4) Where payment of the appropriate fixed penalty or of the first instalment has not been made to the clerk of court, he shall, upon the expiry of the period of 28 days referred to in subsection (2)(c) above or such longer period as may be specified in the conditional offer, notify the procurator fiscal who issued the conditional offer that no payment has been made.
- (5) Proceedings shall not be brought against any person for the offence to which a conditional offer relates until the procurator fiscal receives notification from the clerk of court in accordance with subsection (4) above.
- (6) Where an alleged offender makes payment of the appropriate fixed penalty or of the first instalment to the clerk of court specified in the conditional offer no proceedings shall be brought against the alleged offender for the offence.
- (7) The Secretary of State shall, by order, prescribe a scale of fixed penalties for the purpose of this section, the amount of the maximum penalty on the scale being a sum not exceeding level 1 on the standard scale.
- (8) An order under subsection (7) above—
 - (a) may contain provision as to the payment of fixed penalties by instalments; and
 - (b) shall be made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (9) In this section—
 - (a) “a relevant offence” means any offence in respect of which an alleged offender could competently be tried before a district court, but shall not include a fixed penalty offence within the meaning of section 51 of the Road Traffic Offenders Act 1988 nor any other offence in respect of which a conditional offer within the meaning of sections 75 to 77 of that Act may be sent; and
 - (b) “the appropriate fixed penalty” means such fixed penalty on the scale prescribed under subsection (7) above as the procurator fiscal thinks fit having regard to the circumstances of the case.