



Criminal Procedure (Scotland) Act 1995

1995 CHAPTER 46

PART XIII

MISCELLANEOUS

Fixed penalties

[^{F1}302A Compensation 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 compensation offer); and where he issues a compensation offer the procurator fiscal shall notify the clerk of court specified in it of the issue of the offer and of its terms.
- (2) A compensation 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 compensation payable;
 - (ii) if the compensation is to be payable by instalments, the amount of the instalments and the intervals at which they should be paid;
 - (c) shall indicate that if, within 28 days of the date on which the offer was issued, or such longer period as may be specified in the offer, the alleged offender accepts the offer by making payment in respect of the offer to the clerk of court specified in the offer at the address therein mentioned, any liability to conviction of the offence shall be discharged;
 - (d) shall indicate—
 - (i) that the alleged offender may refuse the offer by giving notice to the clerk of court in the manner specified in the offer before the expiry of 28 days, or such longer period as may be specified in the offer, beginning on the day on which the offer is made;

Changes to legislation: Criminal Procedure (Scotland) Act 1995, Section 302A is up to date with all changes known to be in force on or before 07 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](#)

- (ii) that unless the alleged offender gives such notice, the alleged offender will be deemed to have accepted the offer (even where no payment is made in respect of the offer);
 - (iii) that where the alleged offender is deemed as described in subparagraph (ii) above to have accepted the offer any liability to conviction of the offence shall be discharged except where the offer is recalled under section 302C of this Act;
 - (e) 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 offer was made, or such longer period as may be specified in the offer;
 - (f) shall state—
 - (i) that the acceptance of the offer in the manner described in paragraph (c) above, or deemed acceptance of the offer as described in paragraph (d)(ii) above, shall not be a conviction nor be recorded as such;
 - (ii) that the fact that the offer has been accepted, or deemed to have been accepted, may be disclosed to the court in any proceedings for an offence committed by the alleged offender within the period of two years beginning on the day of acceptance of the offer;
 - [that that fact may be disclosed to the court also in any proceedings
 - ^{F2}(iia) for an offence to which the alleged offender is, or is liable to become, subject at such time as the offer is accepted;]
 - (iii) that if the offer is not accepted, that fact may be disclosed to the court in any proceedings for the offence to which the offer relates;
 - (g) shall state that refusal of an offer under paragraph (d)(i) above will be treated as a request by the alleged offender to be tried for the offence; and
 - (h) shall explain the right to request a recall of the offer under section 302C of this Act.
- (3) A compensation offer may be made in respect of more than one relevant offence and shall, in such a case, state the amount payable in respect of the offer for all the offences in relation to which it is issued.
- (4) The clerk of court shall—
- (a) without delay, notify the procurator fiscal who issued the compensation offer when a notice as described in subsection (2)(d)(i) above has been received in respect of the offer; or
 - (b) following 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 offer, notify the procurator fiscal if no such notice has been received.
- (5) A compensation offer is accepted by the alleged offender making any payment in respect of the offer.
- (6) Where an alleged offender to whom a compensation offer is made does not give notice as described in subsection (2)(d)(i) above, the alleged offender is deemed to have accepted the offer.
- (7) Where—
- (a) an alleged offender accepts a compensation offer as described in subsection (5) above; or

Changes to legislation: *Criminal Procedure (Scotland) Act 1995, Section 302A is up to date with all changes known to be in force on or before 07 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*

- (b) an alleged offender is deemed to have accepted a compensation offer under subsection (6) above and the offer is not recalled,
no proceedings shall be brought against the alleged offender for the offence.
- (8) The Scottish Ministers shall by order prescribe the maximum amount of a compensation offer; but that amount shall not exceed level 5 on the standard scale.
- (9) An order under subsection (8) above shall be made by statutory instrument; and any such instrument shall be subject to annulment in pursuance of a resolution of the Scottish Parliament.
- (10) The alleged offender shall be presumed to have received a compensation offer under subsection (1) above if the offer is sent to—
- (a) the address given by the alleged offender in a request for recall under section 302C(1) of this Act of an earlier offer in the same matter; or
 - (b) any address given by the alleged offender to the clerk of court specified in the offer, or to the procurator fiscal, in connection with the offer.
- (11) For the purposes of section 141(4) of this Act, the accused shall be presumed to have received any citation effected at—
- (a) the address to which a compensation offer under subsection (1) above was sent provided it is proved that the accused received the offer; or
 - (b) any address given by the accused to the clerk of court specified in the offer, or to the procurator fiscal, in connection with the offer.
- (12) The clerk of court shall account for the amount paid under a compensation offer to the person entitled thereto.
- (13) In this section, a “relevant offence” means any offence—
- (a) in respect of which an alleged offender could be tried summarily; and
 - (b) on conviction of which it would be competent for the court to make a compensation order under section 249 of this Act.]

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.
- F2** S. 302A(2)(f)(iia) inserted (28.3.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), [ss. 70\(4\)](#), 206(1); [S.S.I. 2011/178](#), [art. 2](#), sch.

Changes to legislation:

Criminal Procedure (Scotland) Act 1995, Section 302A is up to date with all changes known to be in force on or before 07 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.)