

CRIMINAL JUSTICE (SCOTLAND) ACT 2016

EXPLANATORY NOTES

OVERVIEW OF THE ACT

Schedule 1 – Breach of Liberation Condition

Paragraph 3 – Breach by committing offence

307. **Paragraph 3** applies where a person breaches a liberation condition by committing an offence and the fact that the offence was committed whilst the person was subject to a liberation condition is specified in the complaint or indictment. This is distinct from failing to comply with a condition and applies where the person is being prosecuted for the offence committed while on liberation conditions.
308. **Paragraph 3(2)** requires the court, in determining the penalty for the offence, which constituted the breach of condition, to have regard to the matters specified.
309. **Paragraphs 3(3) and (4)** enable the court to increase the maximum penalty otherwise specified for the offence. This provision effectively displaces the maximum penalty, allowing the court to add to the penalty to take account of the fact that a breach of conditions has occurred as a consequence of the commission of an offence.
310. **Paragraph 3(5)** requires the court to explain the reasons for the penalty imposed for the offence, whether it imposes an increased penalty or not.