

CRIMINAL JUSTICE AND LICENSING (SCOTLAND) ACT 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 3 - Criminal Procedure

Section 55 - Breach of undertaking

261. Under section 22 (liberation on undertaking) of the 1995 Act an accused person can be released by the police on the undertaking that they will appear at court at a later date and that they will comply with certain conditions. The conditions which can be attached to a police undertaking are the same as those which can be applied to a bail order granted by a court and include, for example, a requirement not to commit further offences.
262. **Section 55** adds new sections 22ZA and 22ZB to the 1995 Act. It makes provision in relation to offences committed while a person is subject to a police undertaking. These provisions are broadly similar to those that apply where an accused person commits an offence while liberated on bail.
263. Section 22ZA(1) provides that a person commits an offence where they fail to appear at court as required under an undertaking and also where they fail to comply with a condition attached to that undertaking. Subsection (2) provides for the applicable penalty levels for section 22ZA(1) offences. Subsections (3) (read with subsection (4)) provides that where a person subject to an undertaking commits a further offence, the fact that they have breached the undertaking is not to be treated as a separate offence, but is to be taken account of (along with the other listed factors in subsection (4)) by the court in determining the sentence for the further offence.
264. Subsections (5) to (7) of section 22ZA build upon subsections (3) and (4). They allow the court to consider any previous offence committed in another EU jurisdiction that is considered by the court to be equivalent (in that jurisdiction) to an offence of failing to comply with a condition attached to an undertaking.
265. Section 22ZB makes provision for evidential and procedural matters in relation to offences committed or dealt with under section 22ZA.