



Criminal Proceedings etc. (Reform) (Scotland) Act 2007

2007 asp 6

PART 3

PENALTIES

Penalties as alternative to prosecution

51 Work orders

After section 303 of the 1995 Act there is inserted—

“303ZA Work orders

- (1) Where a procurator fiscal receives a report that a relevant offence has been committed he may send the alleged offender a notice under this section (referred to in this section as a work offer) which offers the alleged offender the opportunity of performing unpaid work.
- (2) The total number of hours of unpaid work shall be not less than 10 nor more than 50.
- (3) A work 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 number of hours of unpaid work which the alleged offender is required to perform;
 - (ii) the date by which that work requires to be completed;
 - (c) shall indicate that if the alleged offender—
 - (i) accepts the work offer; and
 - (ii) completes the work to the satisfaction of the supervising officer,

Status: This is the original version (as it was originally enacted).

- 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 offer was issued, or such longer period as may be specified in the offer;
- (e) shall state—
- (i) that acceptance of a work offer in the manner described in subsection (5) below shall not be a conviction nor be recorded as such;
 - (ii) that the fact that the offer has 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;
 - (iii) that if a work order made under subsection (6) below is not completed, that fact may be disclosed to the court in any proceedings for the offence to which the order relates.
- (4) A work offer may be made in respect of more than one relevant offence and shall, in such a case, state the total amount of work requiring to be performed in respect of the offences in relation to which it is made.
- (5) An alleged offender accepts a work offer by giving notice to the procurator fiscal specified in the order 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.
- (6) If (and only if) the alleged offender accepts a work offer, the procurator fiscal may make an order (referred to in this section as a work order) against the alleged offender.
- (7) Notice of a work order—
- (a) shall be sent to the alleged offender as soon as reasonably practicable after acceptance of the work offer; and
 - (b) shall contain—
 - (i) the information mentioned in subsection (3)(b) above; and
 - (ii) the name and contact details of the person who is to act as supervisor (“the supervising officer”) in relation to the alleged offender.
- (8) The procurator fiscal shall notify the local authority which will be responsible for supervision of an alleged offender of the terms of any work order sent to the alleged offender.
- (9) Where a work order is made, the supervising officer shall—
- (a) determine the nature of the work which the alleged offender requires to perform;
 - (b) determine the times and places at which the alleged offender is to perform that work;
 - (c) give directions to the alleged offender in relation to that work;
 - (d) provide the procurator fiscal with such information as the procurator fiscal may require in relation to the alleged offender’s conduct in connection with the requirements of the order.

- (10) In giving directions under subsection (9)(c) above, a supervising officer shall, so far as practicable, avoid—
 - (a) any conflict with the alleged offender’s religious beliefs;
 - (b) any interference with the times at which the alleged offender normally—
 - (i) works (or carries out voluntary work); or
 - (ii) attends an educational establishment.
- (11) The supervising officer shall, on or as soon as practicable after the date referred to in subsection (3)(b)(ii) above, notify the procurator fiscal whether or not the work has been performed to the supervising officer’s satisfaction.
- (12) Where an alleged offender completes the work specified in the work order to the satisfaction of the supervising officer, no proceedings shall be brought against the alleged offender for the offence.
- (13) The Scottish Ministers may, by regulations, make provision for the purposes of subsection (9) above (including, in particular, the kinds of activity of which the work requiring to be performed may (or may not) consist).
- (14) Regulations under subsection (13) above shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of the Scottish Parliament.
- (15) 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 work offer was sent provided it is proved that the accused received the offer; or
 - (b) any address given, in connection with the offer, by the accused to the procurator fiscal specified in the offer.
- (16) In this section, a “relevant offence” means any offence in respect of which an alleged offender could be tried summarily.”