

Draft Order laid before the Scottish Parliament under section 302(8)(b) of the Criminal Procedure (Scotland) Act 1995, for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2008 No.

CRIMINAL LAW

**The Criminal Procedure (Scotland) Act 1995 Fixed Penalty
Order 2008**

Made - - - -

Coming into force - -

10th March 2008

The Scottish Ministers make the following Order in exercise of the powers conferred by section 302(7) of the Criminal Procedure (Scotland) Act 1995(a) and all other powers enabling them to do so.

In accordance with section 302(8)(b) of that Act, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

Citation, commencement and saving

1.—(1) This Order may be cited as the Criminal Procedure (Scotland) Act 1995 Fixed Penalty Order 2008 and, subject to paragraph (2), comes into force on 10th March 2008.

(2) This Order shall not apply in respect of any conditional offer (under section 302 of the Criminal Proceedings (Scotland) Act 1995) made before 10th March 2008.

Scale of fixed penalties

2. For the purposes of section 302 (fixed penalty: conditional offer by procurator fiscal) of the Criminal Procedure (Scotland) Act 1995 the scale of fixed penalties in the Schedule to this Order is prescribed.

(a) 1995 c.46. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46). Section 302(7) of the Criminal Procedure (Scotland) Act 1995 will be amended by section 50(1) of the Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6). Section 50(1) will come into force on 10th March 2008.

Revocation

3. Subject to article 1(2) of this Order, the Criminal Justice (Scotland) Act 1987 Fixed Penalty Order 1996(a) is revoked.

St Andrew's House,
Edinburgh
2008

A member of the Scottish Executive

(a) S.I. 1996/617. The Criminal Justice (Scotland) Act 1987 Fixed Penalty Order 1996 was made under the powers given to the Secretary of State by section 56(7) and 7(A) of the Criminal Justice (Scotland) Act 1987 (c.41). Section 56 was repealed by section 6 of and Schedule 5 to the Criminal Procedure (Consequential Provisions) (Scotland) Act 1995 (c.40); however, the power was re-enacted in section 302(7) of the Criminal Procedure (Scotland) Act 1995. Section 2(2) of the Criminal Procedure (Consequential Provisions) (Scotland) Act 1995 operates so that the Criminal Justice (Scotland) Act 1987 Fixed Penalty Order 1996 continues to have effect as if made under section 302 of the Criminal Procedure (Scotland) Act 1995.

SCHEDULE

Article 2

THE SCALE OF FIXED PENALTIES

<i>Level on the scale</i>	<i>Amount of fixed penalty</i>
1	£50
2	£75
3	£100
4	£150
5	£200
6	£250
7	£300

EXPLANATORY NOTE

(This note is not part of the Order)

Section 50(1) of the Criminal Proceedings etc. (Reform) (Scotland) Act 2007 amends section 302 (fixed penalty: conditional offer by procurator fiscal) of the Criminal Procedure (Scotland) Act 1995.

Section 50(1) of the Criminal Proceedings etc. (Reform) (Scotland) Act 2007 will be brought into force on 10th March 2008 by the Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (Commencement No. 3 and Transitional Provisions and Savings) Order 2008.

Article 2 of and the Schedule to the Order prescribe the scale of fixed penalties from which a procurator fiscal may send a conditional offer to an alleged offender under section 302 of the Criminal Procedure (Scotland) Act 1995.

Article 3 of this Order revokes the previous Order prescribing a scale of fixed penalties: the Criminal Justice (Scotland) Act 1987 Fixed Penalty Order 1996, subject to the saving provisions in respect of conditional offers made before 10th March 2008.

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