



Criminal Procedure (Scotland) Act 1975

1975 CHAPTER 21

PART II

SUMMARY PROCEDURE

Jurisdiction

[^{F1}289E Penalties for first and subsequent convictions of summary offences to be the same.

- (1) Subject to subsections (2) to (4) and (6) below, this section applies where any Act—
- (a) makes a person liable on conviction of an offence triable only summarily to a penalty or a maximum penalty; or
 - (b) confers a power by subordinate instrument to make a person liable on conviction of an offence triable only summarily (whether or not created by the instrument) to a penalty or a maximum penalty

which is different in the case of a second or subsequent conviction from the penalty or maximum penalty provided or for which provision may be made in the case of a first conviction.

- (2) Where the penalty or maximum penalty for an offence to which section 457A(1)(b) of this Act applies has not been altered by any enactment passed or made after 29th July 1977 (the date of the passing of the Criminal Law Act 1977), this section applies as if the amount referred to in subsection (5)(a) below were the greatest amount to which a person would have been liable on any conviction immediately before that date.
- (3) Where any Act—
- (a) provides or confers a power to provide for a penalty or a maximum penalty which would, but for the operation of section 289C(5) of this Act, be different in the case of a second or subsequent conviction from the penalty or maximum penalty provided for or for which provision may be made in the case of a first conviction; and
 - (b) otherwise fulfils the conditions of subsection (1) above;

Changes to legislation: *Criminal Procedure (Scotland) Act 1975, Section 289E is up to date with all changes known to be in force on or before 27 December 2023. 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*

this section applies to that penalty or maximum penalty as if the amount referred to in subsection (5)(a) below were the greatest amount to which a person would have been liable or could have been made liable on any conviction immediately before the commencement of the said section 289C.

- (4) This section does not apply to—
- (a) section 290 of this Act (imprisonment for certain offences);
 - (b) section 78 of the ^{M1}Criminal Justice (Scotland) Act 1980 (vandalism); or
 - (c) an enactment mentioned in Schedule 7D to this Act.
- (5) Where this section applies the maximum penalty to which a person is or may be made liable by or under the Act in the case of any conviction shall be either or both of—
- (a) a fine not exceeding the greatest amount;
 - (b) imprisonment for a term not exceeding the longest term (if any)
- to which an offender would have been liable or could have been made liable on any conviction (whether the first or a second or subsequent conviction) by or under the Act immediately before the commencement of this section.
- (6) This section does not affect the penalty which may be imposed in respect of an offence committed before it comes into force.]

Textual Amendments

F1 S. 289E–289H inserted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **s. 54**

Modifications etc. (not altering text)

C1 S. 289E amended by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), s. 56(2), **Sch. 8 para. 16**

Marginal Citations

M1 1980 c. 62(39:1).

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Act certain function transferred. by [1994 c. 39 s. 127\(1\)128](#)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 168(c)(ii) amended (prosp.) by [1995 c. 36 s. 105\(4\)Sch. 4 para. 24\(6\)\(b\)](#)
- s. 364(c)(ii) amended (prosp.) by [1995 c. 36 s. 105\(4\)Sch. 4 para. 24\(14\)\(b\)](#)
- s. 413(3) (defn.of "the appropriate local authority") para. (a)(b) amended by [1994 c. 39 Sch. 13 para. 97\(5\)](#)
- s. 413(3) (defns. of "care" and "the 1968 Act") repealed (prosp.) by [1995 c. 36 s. 105\(4\)\(5\)Sch. 4 para. 24\(17\)\(b\)\(i\)Sch. 5](#)
- s. 462 (defns. of "child" "children's hearing" "place of safety" "residential establishment" and "supervision requirement") amended (prosp.) by [1995 c. 36 s. 105\(4\)Sch. 4 para. 24\(18\)](#)
- s. 462 (defns. of "crime" and "prosecutor") applied (prosp.) by [1995 c. 36 s. 53\(7\)](#)