



# Criminal Justice (Scotland) Act 1963

## 1963 CHAPTER 39

### PART III

#### FINES AND IMPRISONMENT, ETC., IN DEFAULT

#### **23 Maximum fines and caution**

- (1) The limit imposed by section 3 of the Summary Jurisdiction (Scotland) Act 1954 upon the amount of the fine which may be imposed by a court of summary jurisdiction other than a sheriff court on convicting a person of a common law offence shall be raised from ten pounds to fifty pounds, and the limit on the amount of caution which any such person as aforesaid may be ordained to find shall be raised from twenty pounds to fifty pounds.
- (2) The limit imposed by section 7 (1) of the said Act upon the amount of the fine which may be imposed by the sheriff on summarily convicting any person of a common law offence, and upon the amount of caution which any such person as aforesaid may be ordained to find, shall be raised from twenty-five pounds to one hundred and fifty pounds.
- (3) The limit imposed by section 40 of the said Act upon the amount of the fine which may be imposed in substitution of a period of imprisonment shall be raised from twenty-five pounds to one hundred pounds.

#### **24 Amendment of s. 33 of the Summary Jurisdiction (Scotland) Act 1954**

The limit imposed by section 33 (1) of the Summary Jurisdiction (Scotland) Act 1954 upon the amount of the fine which may be imposed by a court upon a witness who shall be deemed guilty of contempt of court under that subsection shall be raised from three pounds to twenty-five pounds.

## 25 **Restriction on power to impose imprisonment for failure to pay fine, etc.**

The following sections shall be substituted for sections 42 and 43 of the Summary Jurisdiction (Scotland) Act 1954:—

### **“42 Time for payment of fine and finding of caution.**

- (1) Where a court of summary jurisdiction has imposed a fine on an offender or ordered him to find caution, the court shall, subject to the provisions of the next following subsection, allow him at least seven days to pay the fine or the first instalment thereof or, as the case may be, to find caution; and any reference in this and the next following section to a failure to pay a fine or other like expression shall include a reference to a failure to find caution.
- (2) If on the occasion of the imposition of a fine—
  - (a) the offender appears to the court to possess sufficient means to enable him to pay the fine forthwith; or
  - (b) on being asked by the court whether he wishes to have time for payment he does not ask for time; or
  - (c) he fails to satisfy the court that he has a fixed abode; or
  - (d) the court is satisfied for any other special reason that no time should be allowed for payment,

the court may refuse him time to pay the fine and, if the offender fails to pay, may exercise its power to impose imprisonment and, if it does so, shall state the special reason for its decision.
- (3) Where time is allowed for payment of a fine or payment by instalments is ordered, a court of summary jurisdiction shall not, on the occasion of the imposition of a fine, impose imprisonment in the event of a future default in paying the fine or an instalment thereof unless the offender is before it and the court determines that, having regard to the gravity of the offence or to the character of the offender, or to other special reason, it is expedient that he should be imprisoned without further inquiry in default of payment; and where a court so determines, it shall state the special reason for its decision.
- (4) Where a court of summary jurisdiction has imposed imprisonment in accordance with the provisions of the last foregoing subsection, then, if at any time the offender asks the court to commit him to prison, the court may do so notwithstanding subsection (1) of this section.
- (5) Nothing in the foregoing provisions of this section shall affect any power of a court of summary jurisdiction to order a fine to be recovered by civil diligence.
- (6) Where time has been allowed for payment of a fine imposed by a court of summary jurisdiction, the court may, subject to any rules under this Act, on an application by or on behalf of the offender, and after giving the prosecutor an opportunity of being heard, allow further time for payment.

### **43 Restriction on imprisonment after imposing a fine or requirement to find caution.**

- (1) Where a court of summary jurisdiction has imposed a fine or ordered the finding of caution without imposing imprisonment in default of payment, it shall not impose imprisonment on an offender for failing to make payment of the fine,

unless on an occasion subsequent to that sentence the court has enquired into his means in his presence; but this subsection shall not apply where the offender is in prison.

- (2) A court of summary jurisdiction may, for the purpose of enabling enquiry to be made under this section—
  - (a) issue a citation requiring the offender to appear before the court at a time and place appointed in the citation ; or
  - (b) issue a warrant of apprehension.
- (3) On the failure of the offender to appear before the court in response to a citation under this section, the court may issue a warrant of apprehension.

#### **43A Payment of fine by instalments.**

- (1) Without prejudice to the operation of section 42 (2) of this Act, where a court of summary jurisdiction has imposed a fine on an offender, the court may, of its own motion or on the application of the offender, order payment of that fine by instalments of such amounts and at such time as it may think fit, and it shall be the duty of the court to inform the offender of his right to make an application as aforesaid.
- (2) Where any instalment is not paid by the time so ordered, the offender shall, subject to the provisions of the last foregoing section, be deemed to be in default of payment of a fine of the amount of the unpaid balance and dealt with accordingly, and where the court has already imposed imprisonment in default of payment the offender shall be liable to be imprisoned for a period that bears to the period of imprisonment so imposed the same proportion, as nearly as may be, as the amount of the unpaid balance bears to the total amount of the fine.

#### **43B Supervision pending payment of fine.**

- (1) Where an offender has been allowed time for payment of a fine by a court of summary jurisdiction, the court may, either on the occasion of the imposition of the fine or on a subsequent occasion, order that he be placed under the supervision of such person as the court may from time to time appoint for the purpose of assisting and advising the offender in regard to payment of the fine.
- (2) An order made in pursuance of the last foregoing subsection shall remain in force so long as the offender to whom it relates remains liable to pay the fine or any part of it unless the order ceases to have effect or is discharged under the next following subsection.
- (3) An order under this section shall cease to have effect on the making of a transfer of fine order under section 44 of this Act in respect of the fine or may be discharged by the court that made it without prejudice, in either case, to the making of a new order.
- (4) Where an offender under twenty-one years of age has been allowed time for payment of a fine by a court of summary jurisdiction, the court shall not order the form of detention appropriate to him in default of payment of the fine unless he has been placed under supervision in respect of the fine or the court is satisfied that it is impracticable to place him under supervision.

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

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- (5) Where a court, being satisfied as aforesaid, orders the detention of a person under twenty-one years of age without an order under this section having been made, the court shall state the grounds on which it is so satisfied.
- (6) Where an order under this section is in force in respect of an offender, the court shall not impose imprisonment in default of the payment of the fine, unless the court has, before so doing, taken such steps as may be reasonably practicable to obtain from the person appointed for the supervision of the payment of his fine a report, which may be oral, on the offender's conduct and means and shall consider any report so obtained, in addition, in a case where an enquiry is required by section 43 of this Act, to that enquiry.

### **43C Supplementary provisions relating to payment of fine.**

- (1) Where under the provisions of the last four foregoing sections a court is required to state a special reason for its decision or the grounds on which it is satisfied that it is undesirable or impracticable to place an offender under supervision, the reason or, as the case may be, the grounds shall be entered in the record of the proceedings along with the finding and sentence.
- (2) Any reference in the sections last mentioned to imprisonment shall be construed, in the case of an offender on whom by reason of his age imprisonment may not lawfully be imposed, as a reference to the lawful form of detention in default of payment of a fine appropriate to that person, and any reference to prison shall be construed accordingly.”

## **26 Transfer of fines (including transfer to English court for enforcement, and vice versa)**

- (1) It shall no longer be a requirement that a transfer of fine order within the meaning of section 44 of the Summary Jurisdiction (Scotland) Act 1954 shall be made only on the application of the person on whom the fine was imposed, and accordingly subsection (3) of that section shall cease to have effect.
- (2) For the purpose of enabling .transfer of fine orders to be made—
  - (a) by courts of summary jurisdiction in Scotland in respect of persons residing in England and Wales ; and
  - (b) by magistrates' courts in England and Wales in respect of persons residing in Scotland,

the section set out in Part I of Schedule 3 to this Act shall be substituted for the said section 44, and .the sections set out in Part II of that Schedule shall be inserted after section 72 of the Magistrates' Courts Act 1952.

## **27 Payment of fine in part by prisoner convicted on indictment**

Where a person convicted on indictment has been committed to prison or otherwise detained for failure to pay a fine, the provisions of section 45 of the Summary Jurisdiction (Scotland) Act 1954 (which relates to the reduction of the term of imprisonment where payment of a fine in part is made by a prisoner) shall apply to him as if he had been summarily convicted.

**28 Increase in fine which may be imposed instead of imprisonment on conviction on indictment for statutory offence**

Paragraph (3) of section 43 of the Summary Jurisdiction (Scotland) Act 1908 (which, as read with section 77(4) of that Act, directs that a fine not exceeding twenty-five pounds may be substituted for imprisonment on conviction on indictment for the contravention of any enactment which provides no other penalty than imprisonment for such a contravention) shall be amended by the omission of the words " a fine not exceeding twenty-five pounds " and by the insertion, at the end of the paragraph, of the words "a fine as provided in the following table:—

<i>Period of imprisonment</i>	<i>Amount of fine</i>
Not exceeding three months	Not exceeding £100
Exceeding three months but not exceeding six months	Not exceeding £200
Exceeding six months but not exceeding one year	Not exceeding £400
Over one year	Such fine as the court may, in its discretion, decide."

**29 Remission of fine where young offender detained**

Where, in the case of an offender in a borstal institution, detention centre or approved school, or under supervision following release therefrom, who has not made payment of a fine imposed before his being so detained, it appears to the Secretary of State that remission of the fine might assist the rehabilitation of the offender, he may, after consultation where practicable with the judge by whom or the presiding chairman of 'the court by which sentence was passed, remit that fine in whole or in part.