



Criminal Procedure (Scotland) Act 1975

1975 CHAPTER 21

PART II

SUMMARY PROCEDURE

Jurisdiction

283 Application of Part II of this Act.

- [^{F1}(1) This Part of this Act applies to summary proceedings in respect of any offence which might prior to the passing of this Act, or which may under the provisions of this or any Act, whether passed before or after this Act, be tried summarily.
- (1A) Without prejudice to subsection (1) above, this Part of this Act also applies to procedure in all courts of summary jurisdiction in so far as they have jurisdiction in respect of—
- (a) any offence or the recovery of a penalty under any enactment or rule of law which does not exclude summary procedure as well as, in accordance with section 196 of this Act, to the enforcement of a fine imposed in solemn proceedings; and
 - (b) any order *ad factum praestandum*, or other order of court or warrant competent to a court of summary jurisdiction.]

(2) Where any statute provides for summary proceedings or appeal therefrom being taken under any public general or local enactment, such proceedings or appeal shall be taken under this Part of this Act.

(3) Nothing in this Part of this Act shall extend to any information or complaint or other proceeding under or by virtue of any statutory provision for the recovery of any rate, tax, or impost whatsoever, or shall affect any right to sue for a penalty, or to apply for an order of court or other warrant *ad factum praestandum* in the Court of Session or sheriff court, but it shall not be competent to sue for penalties in the small debt court.

Changes to legislation: *Criminal Procedure (Scotland) Act 1975, Cross Heading: Jurisdiction is up to date with all changes known to be in force on or before 03 July 2018. 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)*

Annotations:

Amendments (Textual)

- F1** S. 283(1)(1A) substituted (31.3.1996 subject to transitional provisions and savings in the commencing S.I.) for s. 283(1) by 1995 c. 20, s. 117(1), **Sch. 6 Pt. I para. 102**; S.I. 1996/517, arts. 3(2), 4-6, **Sch. 2**

[^{F2}283A Offences which are to become triable only summarily.

- (1) [^{F3}Subject to section 8 of the ^{M1}Criminal Justice (Scotland) Act 1980, but otherwise] The provisions of this or any other enactment notwithstanding, the offences mentioned (and broadly described) in column 1 of Schedule 7A to this Act shall be triable only summarily.
- (2) Subsection (1) above is without prejudice to any other provision by virtue of which any offence is triable only summarily.]

Annotations:

Amendments (Textual)

- F2** S. 283A inserted by **Criminal Law Act 1977 (c. 45, SIF 39:1), Sch. 11 para. 2**
- F3** Words inserted by **Criminal Justice (Scotland) Act 1980 (c. 62, SIF 39:1), Sch. 7 para. 49**

Marginal Citations

- M1** 1980 c. 62(39:1).

284 Jurisdiction of inferior courts.

The jurisdiction and powers of all courts of summary jurisdiction, except in so far as the same may be altered or modified by any future Act shall remain as at the commencement of this Act and the district court shall, without prejudice to any other or wider powers conferred by statute, be entitled to exercise power on convicting of a common law offence—

- (a) to award imprisonment for any period not exceeding 60 days;
- (b) to impose a fine not exceeding [^{F4}level 4 on the standard scale];
- (c) to ordain the accused (in lieu of or an addition to such imprisonment or fine) to find caution for good behaviour for any period not exceeding six months and to an amount not exceeding [^{F4}level 4 on the standard scale];
- (d) failing payment of such fine or on failure to find such caution, to award imprisonment in accordance with section 407 of this Act:

Provided that in no case shall the total imprisonment exceed 60 days.

Annotations:

Amendments (Textual)

- F4** Words substituted by **Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 56, Sch. 7**

Modifications etc. (not altering text)

- C1** S. 284 extended by **Animal Health Act 1981 (c. 22, SIF 4:4), s. 92(2)**

Changes to legislation: *Criminal Procedure (Scotland) Act 1975, Cross Heading: Jurisdiction is up to date with all changes known to be in force on or before 03 July 2018. 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)*

285 Certain crimes not to be tried in inferior courts.

A court of summary jurisdiction other than the sheriff court shall not have jurisdiction to try or to pronounce sentence in, but shall, to the extent and in the manner mentioned in the next following section, be entitled to take cognizance of the case of any person—

- (a) found within the jurisdiction of such court, and brought before it accused or suspected of having committed at any place beyond the jurisdiction of such court any offence, or
- (b) brought before such court accused or suspected of having committed within the jurisdiction thereof any of the following offences:—
 - (i) murder, culpable homicide, robbery, rape, wilful fire-raising, or attempt at wilful fire-raising:
 - (ii) stouthrief, theft by housebreaking, or housebreaking with intent to steal:
 - (iii) theft or reset of theft, falsehood fraud or wilful imposition, breach of trust or embezzlement, all to an amount exceeding [^{F5}level 4 on the standard scale].
 - (iv) . . . ^{F6}
 - (v) assault whereby any limb has been fractured, or assault with intent to ravish, or assault to the danger of life, or assault by stabbing:
 - (vi) uttering forged documents or uttering forged bank or banker's notes, or offences under the Acts relating to coinage:

. . . ^{F7}

Annotations:

Amendments (Textual)

- F5** Words substituted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), s. 56, [Sch. 7](#)
- F6** [S. 285\(b\)\(iv\)](#) repealed by [Criminal Justice \(Scotland\) Act 1980 \(c. 62, SIF 39:1\)](#), s. 7(3), [Sch. 8](#)
- F7** Proviso repealed by [Criminal Justice \(Scotland\) Act 1980 \(c. 62, SIF 39:1\)](#), s. 7(3), [Sch. 8](#)

286 Remit to higher court or other jurisdiction.

If either in the preliminary investigation or in the course of the trial of any offence it shall appear that the offence is one which cannot competently be tried in the court before which an accused is brought, or is one which, in the opinion of the court in view of the circumstances of the case, should be dealt with by a higher court, it shall be lawful for the court to commit the accused to prison for examination for any period not exceeding four days, and the prosecutor shall forthwith give notice of such committal to the procurator fiscal of the district within which such offence was committed, or to such other official as may be entitled to take cognizance thereof, in order that the accused may be dealt with according to law.

Annotations:

Modifications etc. (not altering text)

- C2** [S. 286](#) extended by [Contempt of Court Act 1981 \(c. 49, SIF 39:3\)](#), s. 15(5)

Changes to legislation: Criminal Procedure (Scotland) Act 1975, Cross Heading: Jurisdiction is up to date with all changes known to be in force on or before 03 July 2018. 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)

287 Boundaries of jurisdiction.

- (1) Where an offence is committed in any harbour, river, arm of the sea or other water (tidal or otherwise) which runs between or forms the boundary of the jurisdiction of two or more courts, such offence may be tried by any one of such courts.
- (2) Where an offence is committed on the boundary of the jurisdiction of two or more courts, or within the distance of 500 yards of any such boundary, or partly within the jurisdiction of one court and partly within the jurisdiction of another court or courts, such offence may be tried by any one of such courts.
- (3) Where an offence is committed on any person or in respect of any property in or upon any carriage, cart or vehicle employed in a journey by road or railway, or on board any vessel employed in a river, lake, canal or inland navigation, such offence may be tried by any court through whose jurisdiction such carriage, cart, vehicle or vessel passed in the course of the journey or voyage during which the offence was committed, and, where the side, bank, centre or other part of the road, railway, river, lake, canal or inland navigation along which the carriage, cart, vehicle or vessel passed in the course of such journey or voyage is the boundary of the jurisdiction of two or more courts, such offence may be tried by any one of such courts.
- (4) Where several offences, which if committed in one sheriff court district could be tried under one complaint, are alleged to have been committed by any person in different sheriff court districts, the accused may be tried for all or any of those offences under one complaint before the sheriff of any one of such sheriff court districts.
- (5) Where an offence is authorised by this section to be tried by any court, it may be dealt with, heard, tried, determined, adjudged and punished as if the offence had been committed wholly within the jurisdiction of such court.

Annotations:

Modifications etc. (not altering text)

- C3 S. 287(4) modified (3.2.1995) by 1984 c. 39, s. 16C(1) (as inserted (3.2.1995) by 1994 c. 33, s. 91(3); S.I. 1995/127, art. 2(1), Sch. 1)

288 Jurisdiction of sheriff.

- (1) Subject to the provisions of this section, the jurisdiction of the sheriffs within their respective sheriffdoms shall extend to and include all navigable rivers, ports, harbours, creeks, shores and anchoring grounds in or adjoining such sheriffdoms and shall include all criminal maritime causes and proceedings (including such as may apply to persons furth of Scotland) provided the accused shall upon any legal ground of jurisdiction be subject to the jurisdiction of the sheriff before whom such cause or proceeding may be raised.
- (2) It shall not be competent to the sheriff to try any crime committed on the seas which it would not be competent for him to try if the crime had been committed on land.
- (3) Where sheriffdoms are separated by a river, firth, or estuary, the sheriffs on either side shall have concurrent jurisdiction over the intervening space occupied by water.
- (4) The sheriff shall have a concurrent jurisdiction with every other court within his sheriffdom in relation to all offences competent for trial in such courts.

Changes to legislation: *Criminal Procedure (Scotland) Act 1975, Cross Heading: Jurisdiction is up to date with all changes known to be in force on or before 03 July 2018. 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)*

[^{F8}(5) Where an offence is alleged to have been committed in one district in a sheriffdom, it shall be competent to try that offence in a sheriff court in any other district in that sheriffdom.]

Annotations:

Amendments (Textual)

F8 S. 288(5) inserted (30.09.1991) by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1990](#) (c. 40, SIF 39:1), **s. 60**; S.I. 1991/2151, art. 3, **Sch.**

289 Summary powers of sheriff.

The sheriff shall, without prejudice to any other or wider powers conferred by statute, have power on convicting any person of a common law offence—

- (a) to impose a fine not exceeding [^{F9}the prescribed sum (within the meaning of section 289B below)];
- (b) to ordain the accused to find caution for good behaviour for any period not exceeding 12 months and to an amount not exceeding [^{F10}the prescribed sum (within the meaning of section 289B below)], such caution being either in lieu of or in addition to a fine or in addition to imprisonment as hereafter in this section mentioned;
- (c) failing payment of such fine, or on failure to find such caution, to award imprisonment in accordance with section 407 of this Act;
- (d) to award imprisonment, for any period not exceeding three months.

Annotations:

Amendments (Textual)

F9 Words substituted by [Criminal Law Act 1977](#) (c. 45, SIF 39:1), **Sch. 11 para. 4(1)**

F10 Words substituted by [Criminal Law Act 1977](#) (c. 45, SIF 39:1), **Sch. 11 para. 4(2)**

[^{F11}**289A Amendments relating to penalties (and mode of trial) for offences made triable only summarily.**

- (1) The enactments specified in column 2 of Schedule 7A to this Act (which relate to the modes of trial of, and the maximum penalties for, the offences which are by section 283A of this Act made triable only summarily) shall so far as they relate to Scotland have effect subject to the amendments specified in column 3 of that Schedule.
- (2) The said amendments have the effect of altering the maximum penalties available on summary conviction of those offences as well as making alterations consequential on their becoming triable only summarily; and in that Schedule column 4 shows the present maximum penalties by way of fine or imprisonment on summary conviction and on conviction on indictment, and column 5 shows the new maximum penalties resulting from the amendments.]

Changes to legislation: *Criminal Procedure (Scotland) Act 1975, Cross Heading: Jurisdiction is up to date with all changes known to be in force on or before 03 July 2018. 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)*

Annotations:

Amendments (Textual)

F11 Ss. 289A–289D inserted by [Criminal Law Act 1977 \(c. 45, SIF 39:1\)](#), [Sch. 11 para. 5](#)

[^{F12}**289B** **Penalties on summary conviction for offences triable either summarily or on indictment.**

- (1) Where an offence created by a relevant enactment may be tried either on indictment or summarily, the penalty or maximum penalty on summary conviction shall, to the extent that it included, immediately before the commencement of section 55 of the Criminal Justice Act 1982, a penalty or maximum penalty mentioned in column 1 of the Table below, be amended so as to substitute as a maximum penalty the corresponding penalty set forth in column 2 thereof (unless provision is expressly made by any enactment for a larger penalty or maximum penalty on summary conviction)—

<i>Column 1</i>	<i>Column 2</i>
<i>Penalty or maximum penalty at commencement of section 55 of Criminal Justice Act 1982</i>	<i>New maximum penalty</i>
1. Fine (other than a fine specified in paragraph 3 below, or a fine in respect of each period of a specified length during which a continuing offence is committed).	1. Fine not exceeding the prescribed sum.
2. Imprisonment for a period exceeding 3 months.	2. Imprisonment for a period not exceeding 3 months.
3. Fine in respect of a specified quantity or number of things.	3. Fine not exceeding the prescribed sum in respect of each such quantity or number.
4. Fine exceeding £100 in respect of each period of a specified length during which a continuing offence is committed.	4. Fine not exceeding £100 in respect of each such period.

- (2) Where, by virtue of a relevant enactment, a person summarily convicted of any offence to which subsection (1) above relates would, apart from this section, be liable to a fine or a maximum fine of one amount in the case of a first conviction and of a different amount in the case of a second or subsequent conviction, subsection (1) above shall apply irrespective of whether the conviction is a first, second or subsequent one.
- (3)^{F13}
- (5) Subsection (1) above is without prejudice to section 290 of this Act (6 months' imprisonment competent for certain offences).
- (6) In this section—

Changes to legislation: *Criminal Procedure (Scotland) Act 1975, Cross Heading: Jurisdiction is up to date with all changes known to be in force on or before 03 July 2018. 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)*

“the prescribed sum” means [^{F14}£5,000] or such sum as is for the time being substituted in this definition by an order in force under section 289D(1) of this Act;

“relevant enactment” means an enactment contained in the ^{M2}Criminal Law Act 1977 or in any Act (including this Act) passed before, or in the same session as, that Act.

- (7) [^{F15}Section 289GA(1) of this Act] shall not affect so much of any enactment as (in whatever words) provides for a person to be made liable, on summary conviction, to a fine or a maximum fine for each period of a specified length during which a continuing offence is committed.
- (8) Where an enactment to which [^{F16}section 289GA(1) of this Act] applies provides for a person to be made liable to a penalty or maximum penalty on summary conviction of an offence triable either on indictment or summarily which includes a fine or a maximum fine in respect of a specified quantity or a specified number of things, that subsection shall apply to that fine or maximum fine.
- (9) Schedule 7B to this Act shall have effect for the purpose of altering the penalties or maximum penalties available on summary conviction of the offences therein mentioned; and subsection (1) above shall not apply on summary conviction of any of the offences mentioned in paragraph 1(2) of the said Schedule 7B.]

Annotations:

Amendments (Textual)

- F12** S. 289B substituted by virtue of Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 55(2)
- F13** S. 289B(3)(4) repealed by Criminal Justice (Scotland) Act 1987 (c. 41, SIF 39:1), ss. 47(4)(a), 70(2), Sch. 2
- F14** Word in s. 289B(6) substituted (1.10.1992) by virtue of Criminal Justice Act 1991 (c. 53), ss. 17(2), 101(1), Sch. 12, para. 6 (with s. 28); S.I. 1992/333, art. 2(2), Sch. 2 (subject to the restriction of S.I. 1992/333, art. 4A as inserted (1.9.1992) by S.I. 1992/2118, arts. 3, 4).
- F15** Words substituted by Criminal Justice (Scotland) Act 1987 (c. 41, SIF 39:1), s. 70(1), Sch. 1 para. 15(a)
- F16** Words substituted by Criminal Justice (Scotland) Act 1987 (c. 41, SIF 39:1), ss. 47(4)(a), 70(1), Sch. 1 para. 15(b)

Marginal Citations

- M2** 1977 c. 45(39:1).

289C Increase of fines for certain summary offences.

- (1) The enactments specified in column 2 of Schedule 7C to this Act, which relate to the maximum fines for the offences mentioned (and broadly described) in column 1 of that Schedule, shall have effect as if the maximum fine that may be imposed on summary conviction of any offence so mentioned were a fine not exceeding the amount specified in column 4 of that Schedule instead of a fine not exceeding the amount specified in column 3 of that Schedule, so however that the preceding provision shall not alter the maximum daily fine, if any, provided for by any of those enactments.
- (2) This subsection applies to the following enactments (by virtue of which certain byelaws may make persons contravening the byelaws liable on summary conviction to a fine not exceeding £20), namely—

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- (a) section 203 of the ^{M3}Local Government (Scotland) Act 1973 (offences against byelaws) but (the provisions of section 462(11) of this Act notwithstanding) not that section as applied to byelaws made under any provision contained in a local or private Act other than by a local authority; and
- (b) . . . ^{F17}
- (3) In the enactments to which subsection (2) above applies for any reference to £20 there shall be substituted a reference to £50; and any provision in force at the coming into force of this subsection which—
- (a) is contained in any byelaw made by virtue of any enactment to which subsection (2) above applies; and
- (b) specifies £20 as the maximum fine which may be imposed on summary conviction in respect of a contravention of, or offence under, any byelaw mentioned in that provision.
- shall have effect as if it specified £50 instead (but with no change by virtue of this subsection in the maximum daily fine, if any, for which it provides).
- [^{F18}(4) This subsection applies to any pre-1949 enactment (however framed or worded) which—
- (a) as regards any summary offence makes a person liable on conviction thereof to a fine of, or not exceeding, a specified amount less than £50 which has not been altered since the end of 1948 (and is not altered by this Act); or
- (b) confers power by subordinate instrument to make a person as regards any summary offence (whether or not created by the instrument), liable on conviction thereof to a fine of, or a maximum fine of, less than £50 which has not been altered since the end of 1948 (and is not altered by this Act):
- Provided that this subsection does not apply to any offence to which section 457A(1) (b) of this Act applies (offences triable only summarily other than by virtue of express provision).]
- (5) Every enactment to which subsection (4) above applies shall have effect as if for the specified amount less than £50 there mentioned there were substituted:—
- (a) £25 if the specified amount is less than £20; or
- (b) £50 if the specified amount is not less than £20.
- (6) Where, by virtue of any enactment to which subsection (4) above applies by virtue of paragraph (a) of that subsection, a person convicted of a summary offence would, apart from this section, be liable to a fine, or maximum fine, of one amount in the case of a first conviction and of a different amount in the case of a second or subsequent conviction, subsection (5) above shall apply separately in relation to each specified amount less than £50, even if this produces the same instead of different amounts for different convictions.
- [^{F19}(7) Subsection (4) above does not apply to so much of any enactment as (in whatever words) makes a person liable or provides for a person to be made liable, on summary conviction, to a fine or a maximum fine for each period of a specified length during which a continuing offence is committed.
- (7A) Where an enactment to which subsection (4) above applies provides or confers a power to provide for, on conviction of an offence triable only summarily, a fine or a maximum fine in respect of a specified quantity or a specified number of things, “the specified amount” for the purposes of subsection (5) above is the fine or maximum fine so provided or for which provision may be made.]

Changes to legislation: *Criminal Procedure (Scotland) Act 1975, Cross Heading: Jurisdiction is up to date with all changes known to be in force on or before 03 July 2018. 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)*

(8) In subsection (4) above “pre-1949 enactment” means an enactment passed before 1st January 1949 or an enactment passed on or after that date which (whether directly or, through successive re-enactments, indirectly) re-enacts with or without modification an enactment passed before that date.

(9) In this section “enactment” does not include an enactment contained in an order, regulation or other instrument made under an Act.

Annotations:

Amendments (Textual)

F17 S. 289C(2)(b) repealed by **Weights and Measures Act 1985** (c. 72, SIF 131), **Sch. 13**

F18 S. 289C(4) substituted by **Criminal Justice Act 1982** (c. 48, SIF 39:1), **s. 55(3)(a)**

F19 S. 289C(7)(7A) substituted for s. 289C(7) by **Criminal Justice Act 1982** (c. 48, SIF 39:1), **ss. 55(3)(b)**

Marginal Citations

M3 1973 c. 65(81:2).

289D Power to alter sums specified in certain provisions.

[^{F20}(1) If it appears to the Secretary of State that there has been a change in the value of money since the relevant date, he may by order substitute for the sum or sums for the time being specified in the provisions mentioned in subsection (1A) below such other sum or sums as appear to him justified by the change.

(1A) The provisions referred to in subsection (1) above are—

(a) section 289B(6) of this Act;

(b) section 289G(2) of this Act;

(c) section 407(1A) of this Act;

^{F21}(d)

^{F22}(e)

[^{F23}(ee) column 5 or 6 of Schedule 4 to the Misuse of Drugs Act 1971 so far as the column in question relates to the offences under provisions of that Act specified in column 1 of that Schedule in respect of which the maximum fines were increased by Part II of Schedule 8 to the Criminal Justice and Public Order Act 1994.]

(f) ^{F24}

(1B) In subsection (1) above “the relevant date” means—

(a) in relation to the ^{M4}first order made under that subsection, 29th July 1977 (the date of the passing of the Criminal Law Act 1977); and

(b) in relation to each subsequent order, the date of the previous order.]

(2)

(3A) ^{F25}

(4) An order under subsection (1) . . . ^{F26} above—

(a) shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament and may be revoked by a subsequent order thereunder; and

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- (b) without prejudice to Schedule 14 to the ^{M5}Criminal Law Act 1977, shall not affect the punishment for an offence committed before that order comes into force.

Annotations:

Amendments (Textual)

- F20** Words inserted by [Criminal Justice \(Scotland\) Act 1987 \(c. 41, SIF 39:1\)](#), **ss. 47(4)(a)**, 65(5)
- F21** [S. 289D\(1A\)\(d\)](#) repealed (31.3.1996 subject to transitional provisions and savings in the commencing S.I.) by [1995 c. 20, s. 117, Sch. 6 Pt. I para. 103, Sch. 7 Pt. I](#); [S.I. 1996/517, arts. 3\(2\), 4-6, Sch. 2](#)
- F22** [S. 183\(5B\)\(5C\)](#) inserted by [Criminal Justice \(Scotland\) Act 1987 \(c. 41, SIF 39:1\)](#), **ss. 47(4)(a)**, 65(1)(2)(a)
- F23** Community Service by [Offenders \(Scotland\) Act 1978 \(c. 49, SIF 39:1\)](#), **s.7(c)** (substituting “(5) or (5A)” for “or (5)” is repealed by virtue of the [Criminal Justice \(Scotland\) Act 1987 \(c. 41, SIF 39:1\)](#), **ss. 47(4)(a)**, 70(2), **Sch. 2** and for “or (5A)” there is substituted “(5A), (5B) or (5C)” by virtue of the [Criminal Justice \(Scotland\) Act 1987 \(c. 41, SIF 39:1\)](#), **ss. 47(4)(a)**, 65(4)
- F24** [S. 289D\(1A\)\(f\)\(g\)\(2\)\(3\)](#) repealed by [Criminal Justice \(Scotland\) Act 1987 \(c. 41, SIF 39:1\)](#), **ss. 47(4)(a)**, 70(2), **Sch. 2**
- F25** [Ss. 289D\(3A\)](#), 291(1) repealed by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **Sch. 16**
- F26** Words repealed by [Criminal Justice \(Scotland\) Act 1987 \(c. 41, SIF 39:1\)](#), **ss. 47(4)(a)**, 70(2), **Sch. 2**

Marginal Citations

- M4** [1977 c. 45\(39:1\)](#).
- M5** [1977 c. 45\(39:1\)](#).

[^{F27}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—
- makes a person liable on conviction of an offence triable only summarily to a penalty or a maximum penalty; or
 - 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—
- 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
 - otherwise fulfils the conditions of subsection (1) above;

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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 ^{M6}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.]

Annotations:

Amendments (Textual)

F27 S. 289E–289H inserted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), s. 54

Modifications etc. (not altering text)

C4 S. 289E amended by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), s. 56(2), [Sch. 8 para. 16](#)

Marginal Citations

M6 [1980 c. 62\(39:1\)](#).

289F Increase of fines for certain summary offences.

- (1) Subject to subsections (2) to (7) and (9) below, this section applies where any Act passed on or before 29th July 1977 (the date of the passing of the ^{M7}Criminal Law Act 1977)—
- (a) makes a person liable on conviction of an offence triable only summarily to a fine or a maximum fine which is less than £1,000; 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 fine or a maximum fine which is less than £1,000, or a fine or a maximum fine which shall not exceed an amount of less than £1,000, and the fine or maximum fine which may be imposed or, as the case may be, for which the subordinate instrument may provide has not been altered by—
 - (i) section 289A of this Act;
 - (ii) section 289C of this Act (except where section 289E(3) of this Act applies);
 - (iii) section 30(3) of the Criminal Law Act 1977;
 - (iv) an enactment passed or made after 29th July 1977 and before the commencement of this section.

Changes to legislation: Criminal Procedure (Scotland) Act 1975, Cross Heading: Jurisdiction is up to date with all changes known to be in force on or before 03 July 2018. 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)

- (2) In the case of an offence to which section 457A(1)(b) of this Act applies, paragraphs (i) to (iii) of subsection (1) above do not apply and the fine or the maximum fine referred to in subsection (8) below is the fine or the maximum fine for the offence immediately before 29th July 1977 as amended, where applicable, by section 289E of this Act.
- (3) This section also applies where any enactment—
- (a) is contained in a consolidation Act passed after 29th July 1977 and before the commencement of this section; and
 - (b) otherwise fulfils the conditions of subsection (1) above as amended by subsection (2) above where it applies; and
 - (c) is a re-enactment (with or without modification) of an enactment passed on or before that date.
- (4) Subject to subsection (9) below, where an Act provides or confers a power to provide for, on conviction of an offence triable only summarily, a fine or a maximum fine in respect of a specified quantity or a specified number of things, that fine or maximum fine is the fine or, as the case may be, the maximum fine for the purposes of this section.
- (5) Where an Act to which this section applies provides or confers a power to provide different fines or maximum fines in relation to different circumstances or persons of different descriptions, such fines or maximum fines are to be treated separately for the purposes of this section.
- (6) This section also applies where the penalties or maximum penalties provided or for which provision may be made by or under any Act on first and on second or subsequent conviction of an offence have been made the same by operation of section 289E of this Act; and in that case the fine or the maximum fine referred to in subsection (8) below is the maximum fine to which a person is or may be made liable by virtue of that section.
- (7) This section does not apply in the case of—
- (a) so much of any Act as (in whatever words) makes a person liable or provides for a person to be made liable to a fine or a maximum fine for each period of a specified length during which a continuing offence is committed;
 - (b) section 67(3) of the ^{M8}Transport Act 1962;
 - (c) sections 40(5) and 44(1) of the ^{M9}Road Traffic Act 1972;
 - (d) an enactment mentioned in Schedule 1 to the ^{M10}British Railways Act 1977 to the extent that the enactment was amended by section 13(1) of that Act;
 - (e) an enactment mentioned in Schedule 7D to this Act or in Schedule 2 to the ^{M11}Criminal Justice Act 1982.
- (8) Where this section applies, the fine or, as the case may be, the maximum fine to which a person is or may be made liable by or under the Act shall be increased to the amount shown in column 2 of the Table below opposite the band in column 1 within which the fine or the maximum fine referred to in subsection (1) above falls.

<i>Column 1</i>	<i>Column 2</i>
Fine or maximum fine	Increased amount
Under £25	£25
Under £50 but not less than £25	£50
Under £200 but not less than £50	£200

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Under £400 but not less than £200	£500
Under £1,000 but not less than £400	£1,000

- (9) Where an Act to which this section applies provides or confers a power to provide for, on conviction of an offence triable only summarily, a fine or a maximum fine in respect of a specified quantity or a specified number of things but also provides or confers a power to provide for an alternative fine or maximum fine as regards the offence, subsection (8) above shall have effect to increase—
- the alternative fine; and
 - any amount that the Act provides or confers a power to provide for as the maximum which a fine as regards the offence may not exceed,
- as well as the fine or maximum fine which it has effect to increase by virtue of subsection (4) above.
- (10) This section does not affect the penalty which may be imposed in respect of an offence committed before it comes into force.

Annotations:

Marginal Citations

- M7** 1977 c. 45(39:1).
M8 1962 c. 46(126).
M9 1972 c. 20(107:1).
M10 1977 c. xvii.
M11 1982 c. 48(39:1).

289G The standard scale: amendment of enactments.

- (1) There shall be a standard scale of fines for offences triable only summarily, which shall be known as “the standard scale”.

[^{F28}(2) The standard scale is shown below—

<i>Level on the scale</i>	<i>Amount of fine</i>
1	£200
2	£500
3	£1,000
4	£2,500
5	£5,000]

- (3) Any reference in any enactment (whether passed or made before or after the passing of the Criminal Justice Act 1982) to a specified level on the standard scale shall be construed as referring to the amount which corresponds to that level on the standard scale referred to in subsection (2) above.
- (4) Subject to subsection (8) below, where—
- an enactment to which subsection (5) below applies either—

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- (i) makes a person liable on conviction of an offence triable only summarily (whether created by that enactment or otherwise) to a fine or a maximum fine; or
- (ii) 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 fine or a maximum fine;

and

- (b) the amount of the fine or the maximum fine is, whether by virtue of that enactment or otherwise, an amount shown in the second column of the standard scale,

for the reference in the enactment to the amount of the fine or maximum fine there shall be substituted a reference to the level on the standard scale shown in the first column thereof as corresponding to the amount in the second column thereof referred to in paragraph (b) above.

- (5) This subsection applies to an enactment in any Act (including this Act) passed before the commencement of this section.
- (6) Subject to subsection (7) below, where an Act provides or confers a power to provide for, on conviction of an offence triable only summarily, a fine or a maximum fine in respect of a specified quantity or a specified number of things, that fine or maximum fine is the fine or, as the case may be, the maximum fine for the purposes of this section.
- (7) Where an Act provides or confers a power to provide for, on conviction of an offence triable only summarily, a fine or a maximum fine in respect of a specified quantity or a specified number of things but also provides or confers a power to provide for an alternative fine or maximum fine as regards the offence, the fine or the maximum fine for the purposes of this section is—
 - (a) the alternative fine; and
 - (b) any amount that the Act provides or confers a power to provide for as the maximum which a fine as regards the offence may not exceed,
 as well as the fine or maximum fine referred to in subsection (6) above.
- (8) Subsection (4) above does not apply to—
 - (a) an enactment mentioned in Schedule 2 to the ^{M12}Companies Act 1980;
 - (b) the ^{M13}Companies Act 1981; or
 - (c) so much of any Act as (in whatever words) makes a person liable or provides for a person to be made liable to a fine or a maximum fine for each period of a specified length during which a continuing offence is committed.
- (9) Where an enactment to which subsection (5) above applies confers a power such as is mentioned in subsection (4)(a)(ii) above, the power shall be construed as a power to make a person liable to a fine or, as the case may be, a maximum fine of the amount corresponding to the level on the standard scale to which the enactment refers by virtue of subsection (4) above or of a lesser amount.
- [^{F29}(10) Subject to subsection (12) below, where under a relevant subordinate instrument the fine or maximum fine on conviction of a summary offence specified in the instrument is an amount shown in the second column of the standard scale, the reference in the instrument to the amount of the fine or maximum fine shall be construed as a reference to the level in the first column of the standard scale corresponding to that amount.

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- (11) In subsection (10) above, “relevant subordinate instrument” means any instrument made by virtue of an enactment after 30th April 1984 and before the commencement of section 66 of the Criminal Justice (Scotland) Act 1987.
- (12) Subsection (10) above shall not affect so much of any instrument as (in whatever words) makes a person liable on summary conviction to a fine not exceeding a specified amount for each period of a specified length during which a continuing offence is continued after conviction or the occurrence of any other specified event.
- (13) Where there is,
- [^{F30}(a)] under any enactment (however framed or worded) contained in an Act passed before the commencement of section 66 of the Criminal Justice (Scotland) Act 1987;
- [^{F31}(b)] under any instrument (however framed or worded) made by virtue of such an enactment,
- a power to provide by subordinate instrument that a person, as regards any summary offence (whether or not created by the instrument) shall be liable on conviction to a fine, a person may be so made liable to a fine not exceeding a specified level on the standard scale.]
- (14) Subsection (13) above has effect in relation to exercises of powers before as well as after the commencement of section 66 of the Criminal Justice (Scotland) Act 1987.]

Annotations:

Amendments (Textual)

- F28** S. 289G(2) substituted (1.10.1992) by Criminal Justice Act 1991 (c. 53), ss. 17(1), 101(1), **Sch. 12 para. 6** (with s. 28); S.I. 1992/333, art. 2(2), **Sch. 2** (subject to the restriction of S.I. 1992/333, **art. 4A** as inserted (1.9.1992) by S.I. 1992/2118, **arts. 3, 4**).
- F29** S. 289G(10)–(14) inserted by Criminal Justice (Scotland) Act 1987 (c. 41, SIF 39:1), **s. 66(1)**
- F30** “(a)” inserted by Criminal Justice Act 1988 (c. 33, SIF 39:1), s. 170, Sch. 8 para. 16, **Sch. 15**, para. 49(a)
- F31** Words substituted by Criminal Justice Act 1988 (c. 33, SIF 39:1), s. 170, Sch. 8 para. 16, **Sch. 15**, para. 49(b)

Marginal Citations

- M12** 1980 c. 22(27).
- M13** 1981 c. 62(27).

[^{F32}289G] **Statutory maximum as penalty in respect of summary conviction for offences in subordinate instruments.**

- (1) Where there is, under any enactment (however framed or worded) contained in an Act passed before the commencement of section 66 of the Criminal Justice (Scotland) Act 1987, a power by subordinate instrument to create a criminal offence triable either on indictment or summarily, the maximum fine which may, in the exercise of the power, be authorised on summary conviction shall, by virtue of this section, be the statutory maximum (unless some larger maximum fine can be authorised on summary conviction of such an offence by virtue of an enactment other than this subsection).
- (2) Where there is, under any enactment (however framed or worded) contained in an Act passed before the commencement of section 66 of the Criminal Justice (Scotland)

Changes to legislation: *Criminal Procedure (Scotland) Act 1975, Cross Heading: Jurisdiction is up to date with all changes known to be in force on or before 03 July 2018. 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)*

Act 1987, a power to create offences triable either on indictment or summarily by subordinate instrument, the maximum fine on summary conviction for such an offence may be expressed as a fine not exceeding the statutory maximum.

- (3) Subsections (1) and (2) above shall have effect in relation to any exercise of such power before as well as after the commencement of section 66 of the Criminal Justice (Scotland) Act 1987.
- (4) Where an offence created by a subordinate instrument made before the commencement of section 66 of the Criminal Justice (Scotland) Act 1987 may be tried either on indictment or summarily, the maximum fine which may be imposed on summary conviction shall by virtue of this subsection be the statutory maximum (unless the offence is one for which by virtue of the instrument a larger maximum fine may be imposed on summary conviction).
- (5) Where a person summarily convicted of any offence to which subsection (4) above relates would, apart from this section, be liable to a fine or to a maximum fine of an amount in the case of a first conviction and of a different amount in the case of a second or subsequent conviction, subsection (4) above shall apply irrespective of whether the conviction is a first, second or subsequent one.
- (6) Subsection (4) above shall not affect so much of any instrument as (in whatever words) make a person liable on summary conviction to a fine not exceeding a specified amount for each period of a specified length during which a continuing offence is continued after conviction or the occurrence of any other specified event.
- (7) Nothing in this section shall affect the punishment for an offence committed before the commencement of section 66 of the Criminal Justice (Scotland) Act 1987.]

Annotations:

Amendments (Textual)

F32 Ss. 289GA, 289GB inserted by [Criminal Justice \(Scotland\) Act 1987 \(c. 41, SIF 39:1\)](#), **ss. 47(4)(a), 66(2)**

[^{F33}289GB]exceptionally high maximum fines.

- (1) The Secretary of State may by order amend an enactment or subordinate instrument specifying a sum to which this subsection applies so as to substitute for that sum such other sum as appears to him—
 - (a) to be justified by a change in the value of money appearing to him to have taken place since the last occasion on which the sum in question was fixed; or
 - (b) to be appropriate to take account of an order altering the standard scale which has been made or is proposed to be made.
- (2) Subsection (1) above applies to any sum which—
 - (a) is higher than level 5 on the standard scale; and
 - (b) is specified as the fine or the maximum fine which may be imposed on conviction of an offence which is triable only summarily.
- (3) The Secretary of State may by order amend an enactment or subordinate instrument specifying a sum to which this subsection applies so as to substitute for that sum such other sum as appears to him—

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- (a) to be justified by a change in the value of money appearing to him to have taken place since the last occasion on which the sum in question was fixed; or
 - (b) to be appropriate to take account of an order made or proposed to be made altering the statutory maximum.
- (4) Subsection (3) above applies to any sum which—
- (a) is higher than the statutory maximum; and
 - (b) is specified as the maximum fine which may be imposed on summary conviction of an offence triable either on indictment or summarily.
- (5) An order under this section—
- (a) shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament; and
 - (b) shall not affect the punishment for an offence committed before that order comes into force.
- (6) In this section—
- “enactment” includes an enactment contained in an Act passed after the Criminal Justice (Scotland) Act 1987; and
 - “subordinate instrument” includes an instrument made after the passing of that Act.]

Annotations:

Amendments (Textual)

F33 Ss. 289GA, 289GB inserted by Criminal Justice (Scotland) Act 1987 (c. 41, SIF 39:1), ss. 47(4)(a), 66(2)

[^{F34}289GE] Fines under secondary subordinate instruments—Scotland.

- (1) This section applies to any instrument (however framed or worded) which—
- (a) was made before 11th April 1983 (the date of commencement of Part IV of the Criminal Justice Act 1982);
 - (b) confers on any authority other than a harbour authority a power by subordinate instrument to make a person, as regards any summary offence (whether or not created by the latter instrument), liable on conviction to a maximum fine of a specified amount not exceeding £1,000,
- but does not affect so much of any such instrument as (in whatever words) confers a power by subordinate instrument to make a person liable on conviction to a fine for each period of a specified length during which a continuing offence is continued.
- (2) The maximum fine to which a subordinate instrument made by virtue of an instrument to which this section applies may provide that a person shall be liable on conviction of a summary offence is—
- (a) if the specified amount is less than £25, level 1 on the standard scale;
 - (b) if it is £25 or more but less than £50, level 2;
 - (c) if it is £50 or more but less than £200, level 3;
 - (d) if it is £200 or more but less than £400, level 4; and
 - (e) if it is £400 or more, level 5.

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- (3) Subject to subsection (5) below, where an instrument to which this section applies confers a power by subordinate instrument to make a person, as regards a summary offence, liable on conviction to a fine in respect of a specified quantity or a specified number of things, that fine shall be treated for the purposes of this section as being the maximum fine to which a person may be made liable by virtue of the instrument.
- (4) Where an instrument to which this section applies confers a power to provide for different maximum fines in relation to different circumstances or persons of different descriptions, the amount specified as those maximum fines are to be treated separately for the purposes of this section.
- (5) Where an instrument to which this section applies confers a power by subordinate instrument to make a person, as regards a summary offence, liable on conviction to a fine in respect of a specified quantity or a specified number of things but also confers a power by subordinate instrument to make a person, as regards such an offence, liable on conviction to an alternative fine, this section shall have effect in relation—
- (a) to the alternative fine; and
 - (b) to any amount that the instrument specifies as the maximum fine for which a subordinate instrument made in the exercise of the power conferred by it may provide,
- as well as in relation to the fine mentioned in subsection (3) above,]

Annotations:

Amendments (Textual)

F34 S. 289GC inserted by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), s. 56(1), [Sch. 8 para. 16](#)

[^{F35}**289GD** **Lines on summary conviction for offences under subordinate instruments—conversion to references to levels on scale.**

- (1) Where an instrument which was made under an enactment on or after 11th April 1983 but before the commencement of section 54 of the Criminal Justice Act 1988 confers on any authority other than a harbour authority a power by subordinate instrument to make a person liable on summary conviction to a fine of an amount shown in the second column of the standard scale, as that scale had effect when the instrument was made, a reference to the level in the first column of the standard scale which then corresponded to that amount shall be substituted for the reference in the instrument conferring the power to the amount of the fine.
- (2) This section shall not affect so much of any instrument as (in whatever words) makes a person liable on summary conviction to a maximum fine not exceeding a specified amount for each period of a specified length during which a continuing offence is continued.]

Annotations:

Amendments (Textual)

F35 S. 289GD inserted by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), ss. 54, 172, [Sch. 8 para. 16](#)

Changes to legislation: *Criminal Procedure (Scotland) Act 1975, Cross Heading: Jurisdiction is up to date with all changes known to be in force on or before 03 July 2018. 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)*

289H Schedule 7D.

- (1) The enactments specified in column 1 of Schedule 7D to this Act, which relate to the penalties or the maximum penalties for the offences mentioned in those enactments, shall be amended in accordance with the amendments specified in column 2 of that Schedule, which have the effect of altering the penalties on summary conviction of the said offences and placing the fines on a level on the standard scale; and in that Schedule column 3 shows the penalties or, as the case may be, maximum penalties in force immediately before the commencement of this section and column 4 shows the penalties or, as the case may be, maximum penalties resulting from the amendments.
- (2) Subsection (1) above does not affect the penalty which may be imposed in respect of an offence committed before it comes into force.

290 When six months' imprisonment competent.

Where a person is convicted by the sheriff of—

- (a) a second or subsequent offence inferring dishonest appropriation of property, or attempt thereat, or
- (b) a second or subsequent offence inferring personal violence,

he may, without prejudice to any wider powers conferred by statute, be sentenced to imprisonment for any period not exceeding six months.

291 Trial of certain offences.

- (1) ^{F36}
- (2) It is hereby declared that it is competent to prosecute summarily in the sheriff court the crime of uttering a forged document.
- (3) It is hereby declared that it is competent to prosecute summarily in the sheriff court crimes of [^{F37}wilful fire-raising,] robbery and assault with intent to rob.

Annotations:

Amendments (Textual)

F36 Ss. 289D(3A), 291(1) repealed by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [Sch. 16](#)

F37 Words inserted by [Criminal Justice \(Scotland\) Act 1980 \(c. 62, SIF 39:1\)](#), [s. 38](#)

292 Theft outside Scotland.

- (1) Any person who has in his possession in Scotland property which he has stolen in any other part of the United Kingdom may be dealt with, charged, tried and punished in Scotland in like manner as if he had stolen it in Scotland.
- (2) Any person who in Scotland receives property stolen in any other part of the United Kingdom may be dealt with, charged, tried and punished in Scotland in like manner as if it had been stolen in Scotland.

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293 Instructions by Lord Advocate as to reporting offences.

The Lord Advocate may from time to time issue instructions to a chief constable with regard to the reporting, for consideration of the question of prosecution, of offences alleged to have been committed within the area of such chief constable, and it shall be the duty of a chief constable to whom any such instruction is issued to secure compliance therewith.

Changes to legislation:

Criminal Procedure (Scotland) Act 1975, Cross Heading: Jurisdiction is up to date with all changes known to be in force on or before 03 July 2018. 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.

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)