



Criminal Procedure (Scotland) Act 1975

1975 CHAPTER 21

PART II

SUMMARY PROCEDURE

Jurisdiction

283 Application of Part II of this Act

- (1) This Part of this Act shall apply to summary proceedings in respect of—
- (a) 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 the passing of this Act, be tried in a summary manner;
 - (b) any offence or the recovery of a penalty under any statute which does not exclude summary procedure ;
 - (c) any order ad factum praestandum, or other order of court or warrant competent to a court of summary jurisdiction;
- and shall apply to procedure in all courts of summary jurisdiction in so far as they have jurisdiction in the matters aforesaid.
- (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.

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 £100 ;
- (c) to ordain the accused (in lieu of or in 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 £100 ;
- (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.

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 £25:
 - (iv) any of the offences specified in the last foregoing head, or any attempt thereat, where the accused is known to have been previously convicted of any offence inferring dishonest appropriation of property :
 - (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 :

Provided that a person who has been dismissed with an admonition or in whose case a probation order has been made without any sentence having been subsequently pronounced, shall for the purposes of this section be deemed not to have been convicted.

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.

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.

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.

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 £150 ;
- (b) to ordain the accused to find caution for good behaviour for any period not exceeding 12 months and to an amount not exceeding £150, 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.

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 thereof, 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) Any offence described in any statute as a " misdemeanour " or a " crime and offence " may be tried in the sheriff court either on indictment or summarily and, if tried summarily, the imprisonment competent on conviction shall, without prejudice to any wider powers conferred by statute, not exceed three months.
- (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 robbery and assault with intent to rob.

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.

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.