

## SCHEDULES

## SCHEDULE 5

Section 28.

ALTERATION OF PENALTIES ON SUMMARY CONVICTION  
OF CERTAIN OFFENCES TRIABLE EITHER WAY

- 1 (1) The Misuse of Drugs Act 1971 shall be amended as follows—
- (a) in section 26(3) (which makes provision in relation to the penalties for certain offences under the Customs and Excise Act 1952 where a Class C drug is involved), for the words from " as if " onwards there shall be substituted " as if for the words from ' shall be liable ' to ' or to both' there were substituted the following words, that is to say—
    - “ shall be liable—
    - (a) on summary conviction, to a penalty of three times the value of the goods or £500, whichever is the greater, or to imprisonment for a term not exceeding 3 months, or to both ;
    - (b) on conviction on indictment, to a pecuniary penalty of such amount as the court may determine, or to imprisonment for a term not exceeding five years, or to both',so however that nothing in this subsection shall be taken to affect the liability of any person to detention under the said section 45(1), 56(2) or 304.”;
  - (b) in the entries in Schedule 4 showing the punishment that may be imposed on persons summarily convicted of offences mentioned in sub-paragraph (2)(b) below, for " 6 months or £200, or both" there shall be substituted " 3 months or £500 or both "; and
  - (c) in the entry in Schedule 4 relating to section 5(2)—
    - (i) for " 6 months or £400, or both " (being the maximum punishment on summary conviction of an offence under that section where a Class B drug was involved) there shall be substituted " 3 months or £500, or both "; and
    - (ii) for " 6 months or £200, or both " (being the maximum punishment on summary conviction of such an offence where a Class C drug was involved) there shall be substituted " 3 months or £200, or both ".
- (2) The offences to which (as provided in section 28(8) above) section 28(2) above does not apply are—
- (a) offences under section 5(2) of the Misuse of Drugs Act 1971 (having possession of a controlled drug) where the controlled drug in relation to which the offence was committed was a Class B or Class C drug ;
  - (b) offences under the following provisions of that Act, where the controlled drug in relation to which the offence was committed was a Class C drug, namely—
    - (i) section 4(2) (production, or being concerned in the production, of a controlled drug);

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

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- (ii) section 4(3) (supplying or offering a controlled drug or being concerned in the doing of either activity by another);
- (iii) section 5(3) (having possession of a controlled drug with intent to supply it to another);
- (iv) section 8 (being the occupier, or concerned in the management, of premises and permitting or suffering certain activities to take place there);
- (v) section 12(6) (contravention of direction prohibiting practitioner etc. from possessing, supplying etc. controlled drugs); or
- (vi) section 13(3) (contravention of direction prohibiting practitioner etc. from prescribing, supplying etc. controlled drugs);
- (c) offences under the following provisions of the Customs and Excise Act 1952, where the controlled drug constituting the goods in respect of which the offence was committed was a Class C drug, namely—
  - (i) section 45(1) (improper importation) ;
  - (ii) section 56(2) (improper exportation);
  - (iii) section 304 (fraudulent evasion of prohibition or restriction affecting goods).

(3) In this paragraph " controlled drug ", " Class B drug" and " Class C drug" have the same meaning as in the Misuse of Drugs Act 1971.

- 2 In Schedule 4 to the Road Traffic Act 1972 (prosecution and punishment of offences), in the entries relating to section 2 (reckless driving) and section 99(b) (driving while disqualified), for the punishment specified in column 4 in relation to an offence punishable summarily there shall in each case be substituted the words " 6 months or the prescribed sum (within the meaning of section 28 of the Criminal Law Act 1977 or, in Scotland, of section 289B of the Criminal Procedure (Scotland) Act 1975) or both. ".