



# Criminal Justice Act 1988

## 1988 CHAPTER 33

### PART V

#### JURISDICTION, IMPRISONMENT, FINES, ETC.

##### *Jurisdiction*

### 37 Certain either way offences relating to motor vehicles to be summary offences.

(1) In section 12 of the <sup>M1</sup>Theft Act 1968 (taking motor vehicle or other conveyance without authority etc.)—

- (a) in subsection (2), for the words “on conviction on indictment be liable to imprisonment for a term not exceeding three years.” there shall be substituted the words “be liable on summary conviction to a fine not exceeding level 5 on the standard scale, to imprisonment for a term not exceeding six months, or to both.”; and
- (b) at the end of subsection (4) there shall be added the words “and if he is found guilty of it, he shall be liable as he would have been liable under subsection (2) above on summary conviction.”.

(2)<sup>F1</sup>

#### Textual Amendments

**F1** Ss. 37(2), 63, 68 repealed by Road Traffic (Consequential Provisions) Act 1988 (c. 54, SIF 107:1), ss. 3, 5, Sch. 1, Sch. 4 paras. 1, 2

#### Marginal Citations

**M1** 1968 c. 60.

*Status: Point in time view as at 05/11/2012.*

*Changes to legislation: Criminal Justice Act 1988, Cross Heading: Jurisdiction is up to date with all changes known to be in force on or before 20 April 2024. 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)*

### **38 Criminal damage etc. as summary offences.**

- (1) In subsection (1) of section 22 of the <sup>M2</sup>Magistrates' Courts Act 1980 (under which, where an offence of or related to criminal damage is charged and it appears to a magistrates' court clear that the value involved does not exceed the relevant sum, the court is required to proceed as if the offence charged were triable only summarily) in the second paragraph (which states the relevant sum) for "£400" there shall be substituted "£2,000".
- (2) Subsection (1) above does not apply to an offence charged in respect of an act done before this section comes into force.
- (3) The following subsection shall be inserted after subsection (10) of that section—
  - “(11) Where—
    - (a) the accused is charged on the same occasion with two or more scheduled offences and it appears to the court that they constitute or form part of a series of two or more offences of the same or a similar character; or
    - (b) the offence charged consists in incitement to commit two or more scheduled offences,
 this section shall have effect as if any reference in it to the value involved were a reference to the aggregate of the values involved.”
- (4) Subsection (3) above does not apply where any of the offences are charged in respect of acts done before this section comes into force.

#### **Marginal Citations**

**M2** 1980 c. 43.

### **39 Common assault and battery to be summary offences.**

Common assault and battery shall be summary offences and a person guilty of either of them shall be liable to a fine not exceeding level 5 on the standard scale, to imprisonment for a term not exceeding six months, or to both.

### **40 Power to join in indictment count for common assault etc.**

- (1) A count charging a person with a summary offence to which this section applies may be included in an indictment if the charge—
  - (a) is founded on the same facts or evidence as a count charging an indictable offence; or
  - (b) is part of a series of offences of the same or similar character as an indictable offence which is also charged,
 but only if (in either case) the facts or evidence relating to the offence <sup>F2</sup>... [<sup>F3</sup> are disclosed by material which, in pursuance of regulations made under paragraph 1 of Schedule 3 to the Crime and Disorder Act 1998 (procedure where person sent for trial under section 51 [<sup>F4</sup>or 51A] ), has been served on the person charged.
- (2) Where a count charging an offence to which this section applies is included in an indictment, the offence shall be tried in the same manner as if it were an indictable

*Status: Point in time view as at 05/11/2012.*

*Changes to legislation: Criminal Justice Act 1988, Cross Heading: Jurisdiction is up to date with all changes known to be in force on or before 20 April 2024. 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)*

offence; but the Crown Court may only deal with the offender in respect of it in a manner in which a magistrates' court could have dealt with him.

- (3) The offences to which this section applies are—
- (a) common assault;
  - <sup>F5</sup>[(aa) an offence under section 90(1) of the Criminal Justice Act 1991 (assaulting a prisoner custody officer);
  - (ab) an offence under section 13(1) of the Criminal Justice and Public Order Act 1994 (assaulting a secure training centre custody officer)]
  - (b) an offence under section 12(1) of the <sup>M3</sup>Theft Act 1968 (taking motor vehicle or other conveyance without authority etc.);
  - (c) an offence under [<sup>F6</sup>section 103(1)(b) of the Road Traffic Act 1988] (driving a motor vehicle while disqualified);
  - (d) an offence mentioned in the first column of Schedule 2 to the <sup>M4</sup>Magistrates' Courts Act 1980 (criminal damage etc.) which would otherwise be triable only summarily by virtue of section 22(2) of that Act; and
  - (e) any summary offence specified under subsection (4) below.
- (4) The Secretary of State may by order made by statutory instrument specify for the purposes of this section any summary offence which is punishable with imprisonment or involves obligatory or discretionary disqualification from driving.
- (5) A statutory instrument containing an order under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### Textual Amendments

- F2** Words in s. 40(1) repealed (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 3 para. 60\(7\)\(a\)](#), [Sch. 37 Pt. 4](#); [S.I. 2012/1320](#), art. 4(1)(c)(d)(2)(3) (with art. 5) (see [S.I. 2012/2574](#), art. 4(2) and [S.I. 2013/1103](#), art. 4); [S.I. 2012/2574](#), art. 2(2)(3)(c)(d), [Sch.](#) (with arts. 3, 4) (as amended (4.11.2012) by [S.I. 2012/2761](#), art. 2) (with [S.I. 2013/1103](#), art. 4); [S.I. 2013/1102](#), art. 2(1)(d)
- F3** Words in s. 40(1) inserted (4.1.1999 for specified purposes and otherwise 15.1.2001) by [1998 c. 37](#), s. 119, [Sch. 8 para. 66](#); [S.I. 1998/2327](#), [art. 4\(2\)\(c\)](#); [S.I. 2000/3283](#), [art. 2\(c\)](#)
- F4** Words in s. 40(1) inserted (9.5.2005 for specified purposes, 18.6.2012 for specified purposes, 5.11.2012 for specified purposes) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 3 para. 60\(7\)\(b\)](#); [S.I. 2005/1267](#), art. 2(1)(2)(b), [Sch. Pt. 2](#); [S.I. 2012/1320](#), art. 4(1)(c)(2)(3) (with art. 53) (see [S.I. 2012/2574](#), art. 4(2) and [S.I. 2013/1103](#), art. 4); [S.I. 2012/2574](#), art. 2(2)(3)(c), [Sch.](#) (with arts. 3, 4) (as amended (4.11.2012) by [S.I. 2012/2761](#), art. 2) (with [S.I. 2013/1103](#), art. 4)
- F5** S. 40(3)(aa)(ab) inserted (3.2.1995) by [1994 c. 33](#), s. 168(1), [Sch. 9 para. 35](#); [S.I. 1995/127](#), art. Sch. 1, Appendix A
- F6** Words substituted by [Road Traffic \(Consequential Provisions\) Act 1988 \(c. 54\)](#), [SIF 108:1](#), s. 4, [Sch. 3 para. 39](#)

#### Modifications etc. (not altering text)

- C1** S. 40 modified (1.12.1998) by [1998 c. 37](#), s. 52(6), [Sch. 3 para. 6\(8\)](#); [S.I. 1998/2327](#), [art. 4\(2\)](#)

#### Marginal Citations

- M3** 1968 c. 60.  
**M4** 1980 c. 43.

*Status: Point in time view as at 05/11/2012.*

*Changes to legislation: Criminal Justice Act 1988, Cross Heading: Jurisdiction is up to date with all changes known to be in force on or before 20 April 2024. 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)*

**F7 41 Power of Crown Court to deal with summary offence where person committed for either way offence.**

.....

**Textual Amendments**

**F7** S. 41 repealed (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 3 para. 60\(8\)](#), [Sch. 37 Pt. 4](#); [S.I. 2012/1320](#), art. 4(1)(c)(d)(2)(3) (with art. 5) (see [S.I. 2012/2574](#), art. 4(2) and [S.I. 2013/1103](#), art. 4); [S.I. 2012/2574](#), art. 2(2)(3)(c)(d), [Sch.](#) (with arts. 3, 4) (as amended (4.11.2012) by [S.I. 2012/2761](#), art. 2) (with [S.I. 2013/1103](#), art. 4); [S.I. 2013/1103](#), art. 2(1)(c)

**F8 42 .....**

**Textual Amendments**

**F8** S. 42 repealed (25.8.2000) by [2000 c. 6](#), ss. 165(4), 168(1), [Sch. 12 Pt. I](#) (with [Sch. 11 paras. 1, 2](#))

**Status:**

Point in time view as at 05/11/2012.

**Changes to legislation:**

Criminal Justice Act 1988, Cross Heading: Jurisdiction is up to date with all changes known to be in force on or before 20 April 2024. 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.