

## SCHEDULES

### SCHEDULE 1

#### SETTING AND ALTERATION OF CERTAIN PENALTIES

##### *Penalties for first and subsequent convictions of summary offences to be the same*

- 4 (1) Subject to sub-paragraphs (2) to (4) and (6) below, this paragraph applies where any enactment—
- (a) makes a person liable on conviction of an offence triable only summarily to a penalty or a maximum penalty; 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 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 292(2)(b) of the Principal 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 paragraph applies as if the amount referred to in sub-paragraph (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 enactment—
- (a) provides or confers a power to provide for a penalty or a maximum penalty which would, but for the operation of paragraph 3(5) above, 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
  - (b) otherwise fulfils the conditions of sub-paragraph (1) above;
- this paragraph applies to that penalty or maximum penalty as if the amount referred to in sub-paragraph (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 17th July 1978 (the date of coming into force of section 289C of the Criminal Procedure (Scotland) Act 1975).
- (4) This paragraph does not apply to—
- (a) section 5(3) of the Principal Act (imprisonment for certain offences);
  - (b) section 78 of the Criminal Justice (Scotland) Act 1980 (vandalism); or
  - (c) an enactment mentioned in Part III of Schedule 2 to this Act.
- (5) Where this paragraph applies the maximum penalty to which a person is or may be made liable by or under the enactment in the case of any conviction shall be either or both of—

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*Status: This is the original version (as it was originally enacted).*

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- (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 enactment immediately before the relevant date.
- (6) This paragraph does not affect the penalty which may be imposed in respect of an offence committed before the relevant date.
- (7) In sub-paragraphs (5) and (6) above “the relevant date” means—
- (a) in relation to an offence created by or under an Act or, as the case may be, to conviction of such an offence, 11th April 1983; and
  - (b) in relation to an offence created under a subordinate instrument or, as the case may be, to conviction of such an offence, 12th October 1988.