



Criminal Procedure (Scotland) Act 1995

1995 CHAPTER 46

PART XIII

MISCELLANEOUS

Mode of trial

292 Mode of trial of certain offences.

- (1) Subject to subsection (6) below, the offences mentioned (and broadly described) in Schedule 10 to this Act shall be triable only summarily.
- (2) An offence created by statute shall be triable only summarily if—
 - (a) the enactment creating the offence or any other enactment expressly so provides (in whatever words); or
 - (b) subject to subsections (4) and (5)(a) below, the offence was created by an Act passed on or before 29 July 1977 (the date of passing of the ^{M1}Criminal Law Act 1977) and the penalty or maximum penalty in force immediately before that date, on any conviction of that offence, did not include any of the following—
 - (i) a fine exceeding £400;
 - (ii) ^{F1} . . . imprisonment for a period exceeding 3 months;
 - (iii) a fine exceeding £50 in respect of a specified quantity or number of things, or in respect of a specified period during which a continuing offence is committed.
- (3) ^{F2}
- (4) An offence created by statute which is triable only on indictment shall continue only to be so triable.
- (5) An offence created by statute shall be triable either on indictment or summarily if—
 - (a) the enactment creating the offence or any other enactment expressly so provides (in whatever words); or

Status: Point in time view as at 16/08/2013.

Changes to legislation: Criminal Procedure (Scotland) Act 1995, Cross Heading: Mode of trial is up to date with all changes known to be in force on or before 07 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)

- (b) it is an offence to which neither subsection (2) nor subsection (4) above applies.
- (6) An offence which may under any enactment (including an enactment in this Act or passed after this Act) be tried only summarily, being an offence which, if it had been triable on indictment, could competently have been labelled as an additional or alternative charge in the indictment, may (the provisions of this or any other enactment notwithstanding) be so labelled, and tried accordingly.
- (7) Where an offence is labelled and tried on indictment by virtue of subsection (6) above, the penalty which may be imposed for that offence in that case shall not exceed that which is competent on summary conviction.

Textual Amendments

- F1** Words in s. 292(2)(b)(ii) repealed (10.12.2007) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#), ss. 80, 84; [Sch. para. 26\(a\)](#); S.S.I. 2007/479, [art. 3\(1\)](#), Sch. (as amended by S.S.I. 2007/527)
- F2** S. 292(3) repealed (10.12.2007) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#), ss. 80, 84; [Sch. para. 26\(b\)](#); S.S.I. 2007/479, [art. 3\(1\)](#), Sch. (as amended by S.S.I. 2007/527)

Marginal Citations

- M1** 1977 c.45.

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