



# Summary Jurisdiction (Scotland) Act 1954

## 1954 CHAPTER 48

### *Conviction and Sentence Fines*

#### **40 Power to mitigate penalties**

In a summary prosecution for the contravention of any statute or order, where such contravention involves any of the following punishments, viz., imprisonment, the imposition of a fine, the finding of caution for good behaviour or otherwise, either singly or in combination with imprisonment or fine, the court shall have in addition to any other powers conferred by Act of Parliament the following powers, viz.:—

- (a) to reduce the period of imprisonment:
- (b) to substitute a fine not exceeding twenty-five pounds for imprisonment, either with or without caution for good behaviour, not exceeding the amount and the period competent under this Act:
- (c) to substitute the finding of caution as provided for in this Act for a fine or imprisonment.
- (d) to reduce the amount of any fine:
- (e) to dispense with the finding of caution:

Provided that,

- (i) where any Act carries into effect a treaty, convention, or agreement with a foreign state, and such treaty, convention, or agreement stipulates for a fine of minimum amount the court shall not be entitled by virtue of this section to reduce the amount of such fine below that minimum amount;
- (ii) this section shall not apply to proceedings taken under any Act relating to any of Her Majesty's regular or auxiliary forces.

#### **41 Provisions as to fines**

- (1) A court of summary jurisdiction in determining the amount of any fine to be imposed on an offender shall take into consideration, amongst other things, the means of the offender so far as known to the court.

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- (2) Where a court of summary jurisdiction imposes a fine on an offender, the court may order him to be searched, and any money found on him on apprehension or when so searched or when taken to prison or to a detention centre in default of payment of the fine, may, unless the court otherwise directs, be applied towards payment of the fine, and the surplus if any shall be returned to him:

Provided that the money shall not be so applied if the court is satisfied that it does not belong to the person on whom it was found or that the loss of the money will be more injurious to his family than his imprisonment or detention.

#### **42 Time for payment of fine**

- (1) A court of summary jurisdiction may allow time for the payment of any fine imposed by it on an offender or for the finding of caution by an offender, and shall allow time for payment of such fine, unless it is satisfied that the offender is possessed of sufficient means to enable him to pay the fine forthwith, or unless, on being asked by the court, whether he desires that time should be allowed for payment, he does not express any such desire or fails to satisfy the court that he has a fixed residence or unless the court is satisfied, for any other special reason, that no time should be allowed.

- (2) Where an offender on whom a fine has been imposed by a court of summary jurisdiction desires to be allowed time for payment, the court, in deciding what time shall be allowed shall consider any representation by the offender and the time allowed shall not be less than seven clear days:

Provided that, if before the expiration of the time allowed the offender surrenders himself to the court and states that he prefers immediate imprisonment to awaiting the expiration of the time allowed, the court may authorise the clerk of court to issue forthwith an extract of the finding and sentence in the form, as nearly as may be, of the appropriate form contained in Part V of the Second Schedule to this Act.

- (3) Where an offender allowed time for payment as aforesaid appears to the court to be not less than sixteen and not more than twenty-one years of age, the court may, if it thinks fit and subject to any rules made under this Act, order that the offender be placed under the supervision of such person as may be appointed by the court until the fine is paid, and in any such case, the clerk of court, before issuing an extract of the finding and sentence, shall again lay the complaint before the court and the court shall consider any report as to the conduct and means of the offender which may be made by the person under whose supervision the offender has been placed.
- (4) Where time is not allowed for payment of a fine imposed by a court of summary jurisdiction the reasons of the court shall be stated in the finding and sentence.
- (5) Where time has been allowed for payment of a fine imposed by a court of summary jurisdiction, the court may, subject to any rules made under this Act, on an application by or on behalf of the offender, and after giving the prosecutor an opportunity of being heard, allow further time for payment.

#### **43 Payment of fine by instalments**

- (1) Where a court of summary jurisdiction imposes a fine on a person convicted of an offence, the court may, either at the same or at any subsequent time, order payment of the fine by instalments of such amounts, and at such times, as it may think fit, and where any instalment is not paid by the time so ordered, the accused shall be liable to

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imprisonment for such period as bears to the period appropriate to the total amount of the fine the same proportion, as nearly as may be, as the sum of the unpaid instalments bears to that amount.

In this subsection the expression "period appropriate to the total amount of the fine" means the period specified by the court in default of payment of the fine or if no such period is specified, the maximum period applicable to a fine of that amount in pursuance of section forty-nine of this Act.

- (2) In the application of section forty-five of this Act to any person imprisoned in default of payment of any instalment of a fine, the sum of the unpaid instalments shall be deemed to be the fine.

#### **44 Transfer of jurisdiction as to person fined**

- (1) Where a court of summary jurisdiction has imposed a fine on a person convicted of an offence and it appears to the court that he is resident in a place outside the jurisdiction of the court and within the jurisdiction of some other court of summary jurisdiction, the first-mentioned court may, if it appears in the circumstances expedient to do so, make with respect to such fine an order for the purposes of this section (hereinafter referred to as a "transfer of fine order").
- (2) A transfer of fine order shall specify the court within whose jurisdiction the accused is resident, and shall be in such form as may be prescribed by Act of Adjournal.
- (3) A transfer of fine order shall not be made except on the application of the person on whom the fine was imposed, and any such application may be made either in open court by that person or by a solicitor or a person, not being a solicitor, who satisfies the court that he is authorised by the accused so to do, or in writing addressed to the clerk of the court.
- (4) As from the date on which a transfer of fine order is made with respect to any fine, all functions in relation thereto which, if the order had not been made, would have been exercisable under any enactment (including this Act) by the court which imposed the fine or by the clerk of such court shall be exercisable by the court specified in the order or by the clerk thereof, as the case may be, and not otherwise:

Provided that any payment received by virtue of a transfer of fine order by the clerk of the court specified therein shall be forthwith transmitted by him to the clerk of the court which imposed the fine.

- (5) Where it appears to the court specified in a transfer of fine order that the person on whom the fine was imposed is resident in a place outside the jurisdiction of such court and within the jurisdiction of some other court of summary jurisdiction, the court so specified may make a further transfer of fine order with respect to such fine and shall cause a copy thereof to be sent to the clerk of the court which imposed the fine.
- (6) The court to be specified in a transfer of fine order shall, in any case where the fine was imposed by the sheriff court, be a sheriff court.

#### **45 Payment of fine in part by prisoner**

- (1) Where a person committed to prison for failure to pay a fine imposed by a court of summary jurisdiction pays to the governor of the prison under conditions prescribed by rules made under the Prisons (Scotland) Act, 1952, any sum in part satisfaction

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of the fine, the term of imprisonment shall be reduced by a number of days bearing as nearly as possible the same proportion to the total number of days for which the prisoner is sentenced as the sum so paid bears to the total amount of the fine.

- (2) In this section references to a prison and to the governor thereof shall include respectively references to legalised police cells, and to an officer in charge thereof.
- (3) Provision may be made by Act of Adjournment for the application of sums paid under this section and for any matter incidental thereto.