



# Summary Jurisdiction (Scotland) Act 1954

## 1954 CHAPTER 48

### *Jurisdiction*

#### **1 Application of Act**

- (1) This Act so far as relating to summary procedure shall apply to summary proceedings in respect of—
- (a) any offence which might prior to the passing of this Act, or which may under the provisions of this or any Act, whether passed before or after the passing of this Act, be tried in a summary manner;
  - (b) any offence or the recovery of a penalty under any statute which does not exclude summary procedure;
  - (c) any order *ad factum pmstandum*, or other order of court or warrant competent to a court of summary jurisdiction;
- and shall apply to procedure in all courts of summary jurisdiction in so far as they have jurisdiction in the matters aforesaid.
- (2) Where any statute provides for proceedings being taken under the Summary Procedure Act, 1864, the Summary Jurisdiction (Scotland) Acts, 1864 and 1881, or the Summary Jurisdiction (Scotland) Act, 1908, or under any general or local Police Act, or under any public general or local Act incorporating any section of any Act hereby repealed, or for appeal under the Summary Prosecutions Appeals (Scotland) Act, 1875, such proceedings or appeal shall be taken under this Act.
- (3) Nothing in this Act shall extend to any information or complaint or other proceeding under or by virtue of any statutory provision for the recovery of any rate, tax, or impost whatsoever, or shall affect any right to sue for a penalty, or to apply for an order of court or other warrant *ad factum prestandum* in the Court of Session or sheriff court, but it shall not be competent to sue for penalties in the small debt court.

#### **2 Application of provisions of Criminal Procedure (Scotland) Act, 1887**

The provisions of sections four to fifteen, sections fifty-eight to sixty-five and sections sixty-eight and sixty-nine of the Criminal Procedure (Scotland) Act, 1887, shall, as set

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out with modifications in the First Schedule to this Act, apply to proceedings under this Act.

### **3 Jurisdiction of inferior courts of summary jurisdiction**

The jurisdiction and powers of all courts of summary jurisdiction, except in so far as the same may be altered or modified by any future Act shall remain as at the commencement of this Act and the justice of peace court and justices of the peace, and also any judge of police or burgh magistrate, shall, without prejudice to any other or wider powers conferred by statute, be entitled to exercise within their respective jurisdictions power on convicting of a common law offence—

- (a) to award imprisonment for any period not exceeding sixty days;
- (b) to impose a fine not exceeding ten pounds;
- (c) to ordain the accused (in lieu of or in addition to such imprisonment or fine) to find caution for good behaviour for any period not exceeding six months and to an amount not exceeding twenty pounds;
- (d) failing payment of such fine or on failure to find such caution, to award imprisonment in accordance with section forty-nine of this Act; provided always that in no case shall the total imprisonment exceed sixty days.

### **4 Certain crimes not to be tried in inferior courts of summary jurisdiction**

A court of summary jurisdiction other than the sheriff court shall not have jurisdiction to try or to pronounce sentence in, but shall, to the extent and in the manner mentioned in the next succeeding section, be entitled to take cognizance of,

- (1) the case of any person found within the jurisdiction of such court, and brought before it accused or suspected of having committed at any place beyond the jurisdiction of such court any offence, or
- (2) the case of any person brought before such court accused or suspected of having committed within the jurisdiction thereof any of the following offences:—
  - (a) murder, culpable homicide, robbery, rape, wilful fire-raising, or attempt at wilful fire-raising;
  - (b) stouthrief, theft by housebreaking, or housebreaking with intent to steal;
  - (c) theft, or reset of theft, to an amount exceeding ten pounds; or theft, or reset of theft, aggravated by two previous convictions of any offence inferring, dishonest appropriation of property, or theft by opening lockfast places;
  - (d) falsehood fraud and wilful imposition to an amount exceeding ten pounds, or falsehood fraud and wilful imposition aggravated by two previous, convictions of any offence inferring dishonest appropriation of property ;
  - (e) breach of trust and embezzlement to an-amount exceeding ten pounds, or breach of trust and embezzlement aggravated by two previous convictions of any offence inferring dishonest appropriation of property;
  - (f) assault whereby any limb has been fractured, or assault with intent to ravish, or assault to the danger of life, or assault by stabbing;
  - (g) uttering forged documents or uttering forged bank or banker's notes, or offences under the Acts relating to coinage:

Provided that a, person who has been dismissed with an admonition or in whose case a probation order has been made without any sentence having been subsequently

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pronounced, shall for the purposes of (this section be deemed not to have been convicted.

## **5 Remit to higher court or other jurisdiction**

If either in the preliminary investigation or in the course of the trial of any offence it shall appear that the offence is one which cannot competently be tried in the court before which an accused is brought, or is one which, in the opinion of the court in view of the circumstances of the case, should be dealt with by a higher court, it shall be lawful for the court to commit the accused to prison for examination for any period not exceeding four days, and the prosecutor shall forthwith give notice of such committal to the procurator fiscal of the district within which such offence was committed, or to such other official as may be entitled to take cognizance thereof, in order that the accused may be dealt with according to law.

## **6 Boundaries of jurisdiction**

- (1) An offence committed in any harbour, river, arm of the sea, or other water (tidal or other) which runs between, or forms the boundary of, the jurisdiction of two or more courts, may be tried by any one of such courts.
- (2) An offence committed on the boundary of the jurisdiction of two or more courts, or within the distance of five hundred yards of any such boundary, or partly within the jurisdiction of one court and partly within the jurisdiction of another court or courts, may be tried by any one of such courts.
- (3) Where an offence is committed on any person or in respect of any property in or upon any carriage, cart, or vehicle employed in a journey by road or railway, or on board any vessel employed in a river, lake, canal, or inland navigation, such offence may be tried by any court through whose jurisdiction such carriage, cart, vehicle, or vessel passed in the course of the journey or voyage during which the offence was committed, and, where the side, bank, centre, or other part of the road, railway, river, lake, canal, or inland navigation along which the carriage, cart, vehicle or vessel passed in the course of such journey or voyage is the boundary of the jurisdiction of two or more courts, such offence may be tried by any one of such courts.
- (4) Where several offences, which if committed in one county could be tried under one complaint, are alleged to have been committed in different counties, proceedings may be taken for all or any of those offences under one complaint before the sheriff of any one of such counties.
- (5) Where an offence is authorised by this section to be tried by any court, it may be dealt with, heard, tried, determined, 'adjudged, and punished as if the offence had been wholly committed within the jurisdiction of such court.

## **7 Summary powers of sheriff**

- (1) The sheriff shall, without prejudice to any other or wider powers conferred by statute, have power on summarily convicting any person of a common law offence—
  - (a) to impose a fine not exceeding twenty-five pounds :
  - (b) to ordain the accused to find caution for good behaviour for any period not exceeding twelve months and to an amount not exceeding twenty-five pounds,

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such caution being either in lieu of or in addition to a fine or in addition to imprisonment as hereafter in this section mentioned:

- (c) failing payment of such fine, or on failure to find such caution, to award imprisonment in accordance with section forty-nine of this Act:
  - (d) to award imprisonment, for any period not exceeding three months.
- (2) The sheriff shall have a concurrent jurisdiction with every other court within his sheriffdom in regard to all offences competent for trial in such courts.

## **8 In certain cases sentence of six months' imprisonment competent**

Where a person is summarily convicted by the sheriff of

- (a) any offence inferring dishonest appropriation of property, or attempt thereof, aggravated by at least two previous convictions of any such offence, or
- (b) any offence inferring personal violence aggravated by at least two previous convictions of any such offence,

he may, without prejudice to any wider powers conferred by statute, be sentenced to imprisonment for any period not exceeding 'six months.

## **9 Trial of certain offences**

- (1) Any offence described in any statute as a "misdemeanour " or a " crime and offence " may be tried in the sheriff court either by indictment or summarily, and, if tried summarily, the imprisonment competent on conviction shall, without prejudice to any wider powers conferred by statute, not exceed three months.
- (2) For the removal of doubt it is hereby declared that it is competent to prosecute summarily in the sheriff court the crime of uttering a forged document.