



# Criminal Justice Act 1982

## 1982 CHAPTER 48

### PART IV

#### PROVISIONS APPLICABLE TO SCOTLAND ONLY

#### **53 Power to alter certain fines and other sums**

Section 289D of the Criminal Procedure (Scotland) Act 1975 (power of the Secretary of State to alter certain sums) shall be amended as follows—

(a) for subsection (1), substitute the following subsections—

“(1) If it appears to the Secretary of State that there has been a change in the value of money since the relevant date, he may by order substitute for the sum or sums for the time being specified in the provisions mentioned in subsection (1A) below such other sum or sums as appear to him justified by the change.

(1A) The provisions referred to in subsection (1) above are—

- (a) section 289B(6) of this Act;
- (b) section 289G(2) of this Act;
- (c) section 407(1A) of this Act;
- (d) section 435(e) of this Act;
- (e) section 453(3) of this Act;
- (f) section 7 (4) (a) of the Cinematograph (Amendment) Act 1982;
- (g) paragraph 19(3) of Schedule 2 to the Civic Government (Scotland) Act 1982.

(1B) In subsection (1) above 'the relevant date' means—

- (a) in relation to the first order made under that subsection, 29th July 1977 (the date of the passing of the Criminal Law Act 1977); and

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- (b) in relation to each subsequent order, the date of the previous order.”;
- (b) in subsection (2), leave out the words " or (3A) " ;
- (c) in subsection (3), for the words " Criminal Law Act 1977 " substitute " Criminal Justice Act 1982 ";
- (d) subsection (3A) is repealed.

#### 54 **Revision of penalties for summary offences and of certain other sums**

After section 289D of the Criminal Procedure (Scotland) Act 1975 there shall be inserted the following new sections—

**“289E Penalties for first and subsequent convictions of summary offences to be the same.**

- (1) Subject to subsections (2) to (4) and (6) below, this section applies where any Act—
  - (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 457A(1)(b) of this 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 section applies as if the amount referred to in subsection (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 Act—
  - (a) provides or confers a power to provide for a penalty or a maximum penalty which would, but for the operation of section 289C(5) of this Act, 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 subsection (1) above;

this section applies to that penalty or maximum penalty as if the amount referred to in subsection (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 the commencement of the said section 289C.
- (4) This section does not apply to—
  - (a) section 290 of this Act (imprisonment for certain offences);
  - (b) section 78 of the Criminal Justice (Scotland) Act 1980 (vandalism); or
  - (c) an enactment mentioned in Schedule 7D to this Act.

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- (5) Where this section applies the maximum penalty to which a person is or may be made liable by or under the Act in the case of any conviction shall be either or both of—
- (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 Act immediately before the commencement of this section.
- (6) This section does not affect the penalty which may be imposed in respect of an offence committed before it comes into force.

### **289F Increase of fines for certain summary offences.**

- (1) Subject to subsections (2) to (7) and (9) below, this section applies where any Act passed on or before 29th July 1977 (the date of the passing of the Criminal Law Act 1977)—
- (a) makes a person liable on conviction of an offence triable only summarily to a fine or a maximum fine which is less than £1,000 ; 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 fine or a maximum fine which is less than £1,000, or a fine or a maximum fine which shall not exceed an amount of less than £1,000,
- and the fine or maximum fine which may be imposed or, as the case may be, for which the subordinate instrument may provide has not been altered by—
- (i) section 289A of this Act;
  - (ii) section 289C of this Act (except where section 289E(3) of this Act applies);
  - (iii) section 30(3) of the Criminal Law Act 1977;
  - (iv) an enactment passed or made after 29th July 1977 and before the commencement of this section.
- (2) In the case of an offence to which section 457A(1)(6) of this Act applies, paragraphs (i) to (iii) of subsection (1) above do not apply and the fine or the maximum fine referred to in subsection (8) below is the fine or the maximum fine for the offence immediately before 29th July 1977 as amended, where applicable, by section 289E of this Act.
- (3) This section also applies where any enactment—
- (a) is contained in a consolidation Act passed after 29th July 1977 and before the commencement of this section; and
  - (b) otherwise fulfils the conditions of subsection (1) above as amended by subsection (2) above where it applies ; and
  - (c) is a re-enactment (with or without modification) of an enactment passed on or before that date.
- (4) Subject to subsection (9) below, where an Act provides or confers a power to provide for, on conviction of an offence triable only summarily, a fine or a maximum fine in respect of a specified quantity or a specified number of things,

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that fine or maximum fine is the fine or, as the case may be, the maximum fine for the purposes of this section.

- (5) Where an Act to which this section applies provides or confers a power to provide different fines or maximum fines in relation to different circumstances or persons of different descriptions, such fines or maximum fines are to be treated separately for the purposes of this section.
- (6) This section also applies where the penalties or maximum penalties provided or for which provision may be made by or under any Act on first and on second or subsequent conviction of an offence have been made the same by operation of section 289E of this Act; and in that case the fine or the maximum fine referred to in subsection (8) below is the maximum fine to which a person is or may be made liable by virtue of that section.
- (7) This section does not apply in the case of—
- (a) so much of any Act as (in whatever words) makes a person liable or provides for a person to be made liable to a fine or a maximum fine for each period of a specified length during which a continuing offence is committed;
  - (b) section 67(3) of the Transport Act 1962 ;
  - (c) sections 40(5) and 44(1) of the Road Traffic Act 1972;
  - (d) an enactment mentioned in Schedule 1 to the British Railways Act 1977 to the extent that the enactment was amended by section 13(1) of that Act;
  - (e) an enactment mentioned in Schedule 7D to this Act or in Schedule 2 to the Criminal Justice Act 1982.
- (8) Where this section applies, the fine or, as the case may be, the maximum fine to which a person is or may be made liable by or under the Act shall be increased to the amount shown in column 2 of the Table below opposite the band in column 1 within which the fine or the maximum fine referred to in subsection (1) above falls.

<i>Column 1</i>	<i>Column 2</i>
<i>Fine or maximum fine</i>	<i>Increased amount</i>
Under £25	£25
Under £50 but not less than £25	£50
Under £200 but not less than £50	£200
Under £400 but not less than £200	£500
Under £1,000 but not less than £400	£1,000

- (9) Where an Act to which this section applies provides or confers a power to provide for, on conviction of an offence triable only summarily, a fine or a maximum fine in respect of a specified quantity or a specified number of things but also provides or confers a power to provide for an alternative fine or maximum fine as regards the offence, subsection (8) above shall have effect to increase—
- (a) the alternative fine ; and

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(b) any amount that the Act provides or confers a power to provide for as the maximum which a fine as regards the offence may not exceed, as well as the fine or maximum fine which it has effect to increase by virtue of subsection (4) above.

(10) This section does not affect the penalty which may be imposed in respect of an offence committed before it comes into force.

**289G The standard scale: amendment of enactments.**

(1) There shall be a standard scale of fines for offences triable only summarily, which shall be known as " the standard scale " .

(2) The standard scale is as follows—

STANDARD SCALE

<i>Level</i>	<i>Amount</i>
1	£25
2	£50
3	£200
4	£500
5	£1,000.

(3) Any reference in any enactment (whether passed or made before or after the passing of the Criminal Justice Act 1982) to a specified level on the standard scale shall be construed as referring to the amount which corresponds to that level on the standard scale referred to in subsection (2) above.

(4) Subject to subsection (8) below, where—

(a) an enactment to which subsection (5) below applies either—

(i) makes a person liable on conviction of an offence triable only summarily (whether created by that enactment or otherwise) to a fine or a maximum fine; or

(ii) 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 fine or a maximum fine; and

(b) the amount of the fine or the maximum fine is, whether by virtue of that enactment or otherwise, an amount shown in the second column of the standard scale,

for the reference in the enactment to the amount of the fine or maximum fine there shall be substituted a reference to the level on the standard scale shown in the first column thereof as corresponding to the amount in the second column thereof referred to in paragraph (b) above.

(5) This subsection applies to an enactment in any Act (including this Act) passed before the commencement of this section.

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- (6) Subject to subsection (7) below, where an Act provides or confers a power to provide for, on conviction of an offence triable only summarily, a fine or a maximum fine in respect of a specified quantity or a specified number of things, that fine or maximum fine is the fine or, as the case may be, the maximum fine for the purposes of this section.
- (7) Where an Act provides or confers a power to provide for, on conviction of an offence triable only summarily, a fine or a maximum fine in respect of a specified quantity or a specified number of things but also provides or confers a power to provide for an alternative fine or maximum fine as regards the offence, the fine or the maximum fine for the purposes of this section is—
- (a) the alternative fine ; and
  - (b) any amount that the Act provides or confers a power to provide for as the maximum which a fine as regards the offence may not exceed,
- as well as the fine or maximum fine referred to in subsection (6) above.
- (8) Subsection (4) above does not apply to—
- (a) an enactment mentioned in Schedule 2 to the Companies Act 1980 ;
  - (b) the Companies Act 1981; or
  - (c) so much of any Act as (in whatever words) makes a person liable or provides for a person to be made liable to a fine or a maximum fine for each period of a specified length during which a continuing offence is committed.
- (9) Where an enactment to which subsection (5) above applies confers a power such as is mentioned in subsection (4)(a)(ii) above, the power shall be construed as a power to make a person liable to a fine or, as the case may be, a maximum fine of the amount corresponding to the level on the standard scale to which the enactment refers by virtue of subsection (4) above or of a lesser amount.

#### **289H Schedule 7D.**

- (1) The enactments specified in column 1 of Schedule 7D to this Act, which relate to the penalties or the maximum penalties for the offences mentioned in those enactments, shall be amended in accordance with the amendments specified in column 2 of that Schedule, which have the effect of altering the penalties on summary conviction of the said offences and placing the fines on a level on the standard scale; and in that Schedule column 3 shows the penalties or, as the case may be, maximum penalties in force immediately before the commencement of this section and column 4 shows the penalties or, as the case may be, maximum penalties resulting from the amendments.
- (2) Subsection (1) above does not affect the penalty which may be imposed in respect of an offence committed before it comes into force.”.

#### **55 Mode of trial of, and penalties for, certain offences**

- (1) In Part III of the Criminal Procedure (Scotland), Act 1975, before section 458 there shall be inserted the following new section—

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**“457A Mode of trial of certain offences.**

- (1) 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 (2) and (3)(a) below, the offence was created by an Act passed on or before 29th July 1977 (the date of passing of the 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) 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:

Provided that, in the application of paragraph (b)(ii) above, no regard shall be paid to the fact that section 290 of this Act permits the imposition of imprisonment for a period exceeding 3 months in certain circumstances.

- (2) An offence created by statute which is triable only on indictment shall continue only to be so triable.
- (3) 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
  - (b) it is an offence to which neither subsection (1) nor subsection (2) above applies.
- (4) 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 libelled as an additional or alternative charge in the indictment, may (the provisions of this or any other enactment notwithstanding) be so libelled, and tried accordingly :

Provided that the penalty which may be imposed for that offence in that case shall not exceed that which is competent on summary conviction.”.

- (2) For section 289B of the said Act of 1975 there shall be substituted the following section—

**“289B Penalties on summary conviction for offences triable either summarily or on indictment.**

- (1) Where an offence created by a relevant enactment may be tried either on indictment or summarily, the penalty or maximum penalty on summary conviction shall, to the extent that it included, immediately before the commencement of section 55 of the Criminal Justice Act 1982, a penalty or maximum penalty mentioned in column 1 of the Table below, be amended so as to substitute as a maximum penalty the corresponding penalty set forth in

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column 2 thereof (unless provision is expressly made by any enactment for a larger penalty or maximum penalty on summary conviction)—

<i>Column 1</i>	<i>Column 2</i>
<i>Penalty or maximum penalty at commencement of section 55 of Criminal Justice Act 1982</i>	<i>New maximum penalty</i>
1. Fine (other than a fine specified in paragraph 3 below, or a fine in respect of each period of a specified length during which a continuing offence is committed).	1. Fine not exceeding the prescribed sum.
2. Imprisonment for a period exceeding 3 months.	2. Imprisonment for a period not exceeding 3 months.
3. Fine in respect of a specified quantity or number of things.	3. Fine not exceeding the prescribed sum in respect of each such quantity or number.
4. Fine exceeding £100 in respect of each period of a specified length during which a continuing offence is committed.	4. Fine not exceeding £100 in respect of each such period.

- (2) Where, by virtue of a relevant enactment, a person summarily convicted of any offence to which subsection (1) above relates would, apart from this section, be liable to a fine or a maximum fine of one amount in the case of a first conviction and of a different amount in the case of a second or subsequent conviction, subsection (1) above shall apply irrespective of whether the conviction is a first, second or subsequent one.
- (3) Where, as regards any offence to which subsection (1) above relates, there is under any enactment (in whatever words) a power by subordinate instrument to restrict the amount of the fine or maximum fine which on summary conviction can be imposed in respect of that offence—
- (a) subsection (1) above shall not affect that power or override any restriction imposed in exercise of that power ; and
  - (b) the amount to which that fine or maximum fine may be restricted in exercise of that power shall be any amount less than the fine or maximum fine which could be imposed on summary conviction in respect of the offence apart from any restriction so imposed.
- (4) Where there is under a relevant enactment (in whatever words) a power by subordinate instrument to create a criminal offence, the maximum fine which may in the exercise of that power be authorised on summary conviction in respect of such an offence, when that offence may be tried either on indictment or summarily, shall by virtue of this subsection be the prescribed sum unless some larger maximum fine can be authorised on summary conviction in respect of such an offence by virtue of an enactment other than this subsection.
- (5) Subsection (1) above is without prejudice to section 290 of this Act (6 months' imprisonment competent for certain offences).
- (6) In this section—



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'the prescribed sum' means £1,000 or such sum as is for the time being substituted in this definition by an order in force under section 289D(1) of this Act;

'relevant enactment' means an enactment contained in the Criminal Law Act 1977 or in any Act (including this Act) passed before, or in the same session as, that Act.

- (7) Subsection (4) above shall not affect so much of any enactment as (in whatever words) provides for a person to be made liable, on summary conviction, to a fine or a maximum fine for each period of a specified length during which a continuing offence is committed.
- (8) Where an enactment to which subsection (4) above applies provides for a person to be made liable to a penalty or maximum penalty on summary conviction of an offence triable either on indictment or summarily which includes a fine or a maximum fine in respect of a specified quantity or a specified number of things, that subsection shall apply to that fine or maximum fine.
- (9) Schedule 7B to this Act shall have effect for the purpose of altering the penalties or maximum penalties available on summary conviction of the offences therein mentioned; and subsection (1) above shall not apply on summary conviction of any of the offences mentioned in paragraph 1(2) of the said Schedule 7B.”
- (3) Section 289C of the said Act of 1975 (increase of fines for certain summary offences) shall be amended as follows—
- (a) for subsection (4) there shall be substituted the following subsection—
- “(4) This subsection applies to any pre-1949 enactment (however framed or worded) which—
- (a) as regards any summary offence makes a person liable on conviction thereof to a fine of, or not exceeding, a specified amount less than £50 which has not been altered since the end of 1948 (and is not altered by this Act); or
- (b) confers power by subordinate instrument to make a person as regards any summary offence (whether or not created by the instrument), liable on conviction thereof to a fine of, or a maximum fine of, less than £50 which has not been altered since the end of 1948 (and is not altered by this Act):

Provided that this subsection does not apply to any offence to which section 457A(1)(b) of this Act applies (offences triable only summarily other than by virtue of express provision).”;

- (b) for subsection (7) there shall be substituted the following subsections—
- “(7) Subsection (4) above does not apply to so much of any enactment as (in whatever words) makes a person liable or provides for a person to be made liable, on summary conviction, to a fine or a maximum fine for each period of a specified length during which a continuing offence is committed.
- (7A) Where an enactment to which subsection (4) above applies provides or confers a power to provide for, on conviction of an offence triable

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only summarily, a fine or a maximum fine in respect of a specified quantity or a specified number of things, 'the specified amount' for the purposes of subsection (5) above is the fine or maximum fine so provided or for which provision may be made.”.

- (4) In section 289D of the said Act of 1975 (power to alter sums specified in certain provisions), after the word "the" at the beginning of each of paragraphs (a) and (b) of subsection (3) there shall be inserted the words "fine or".
- (5) Subsections (2) to (4) above do not apply in relation to any offence committed before they come into force.

## **56 Schedules 7A to 7D to the Criminal Procedure (Scotland) Act 1975 and**

- (1) It is hereby declared that Schedules 7 A to 7C to the Criminal Procedure (Scotland) Act 1975 have effect notwithstanding the repeal by Schedule 8 to the Criminal Justice (Scotland) Act 1980 of paragraphs 11 to 13 of Schedule 11 to the Criminal Law Act 1977 and have had effect at all times since the coming into force of the said Schedule 8.
- (2) After Schedule 7C to the Criminal Procedure (Scotland) Act 1975 there shall be inserted the Schedule set out in Schedule 6. to this Act, which shall form Schedule 7D to the said Act of 1975.
- (3) The enactments specified in column 1 of Schedule 7 to this Act are amended so as to substitute for references to certain sums references to levels on the standard scale corresponding to amounts equal to, or greater than, those sums; and in that Schedule—
  - (a) column 1 specifies the enactments to be amended ;
  - (b) column 2 specifies the amendments ;
  - (c) column 3 shows the sums presently referred to in the said enactments; and
  - (d) column 4 shows the new sums (corresponding to the appropriate levels on the standard scale as they are fixed at the date of commencement of this section.
- (4) The amendments provided for in Schedule 7 to this Act, other than paragraph 4 thereof, do not affect the penalty which may be imposed in respect of an act or omission occurring before that Schedule comes into force.
- (5) The amendment provided for in paragraph 4 of Schedule 7. to this Act shall not apply in relation to proceedings commenced before the coming into force of that provision; and for the purpose of this subsection, proceedings shall be taken to have been commenced on the day on which the petition or complaint is served on the accused.