

CRIMINAL PROCEEDINGS ETC. (REFORM) (SCOTLAND) ACT 2007

EXPLANATORY NOTES

INTRODUCTION

Part 3 – Penalties

Sentencing powers

Section 47: Fine Level

264. This section provides that the maximum level of fine that may be imposed on summary conviction in respect of a statutory “triable either way offence” where the maximum penalty on summary conviction is currently expressed by reference to ‘level 5 on the standard scale’ is to be £10,000 in future.
265. Subsection (1) (read with the definitions provided in subsections (6), (7) and (8)), provides that the maximum fine that may be imposed on a person following summary conviction of a “triable either way” offence for which the current maximum is referred to as level 5 on the standard scale shall be the statutory maximum.
266. The effect of subsection (2) is that the statutes which create the affected offences are to be read subject to the amended maximum financial penalty (the reference to “level 5” as the maximum fine imposable on summary conviction in a “triable either way” offence is to be read as a reference to “the statutory maximum” by virtue of this provision).
267. Subsection (3) allows the Scottish Ministers, by order, to amend the maximum level of fine specified in the statutory offences to which subsections (1) and (2) apply. This means that, in due course, textual amendment of the relevant statutes can take place, avoiding ongoing reliance on the general amendment.
268. The effect of subsection (4) is that any reference in a ‘relevant power’ which expresses the maximum level of fine that may be imposed on summary conviction for a “triable either way” offence as level 5 on the standard scale is to be read as a reference to the statutory maximum. ‘Relevant power’ is defined in subsection (7).
269. Subsection (5) allows the Scottish Ministers, by order, to amend the specification of the maximum fine level in a relevant power so as to increase the maximum to the statutory maximum. This means that, in due course, textual amendment of relevant powers can take place, ensuring that those powers make clear the level of penalty that may be set in any offence created under them, avoiding ongoing reliance on the general amendment.
270. Subsections (6) to (8) provide definitions for the purposes of subsections (1) to (5).